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# Policies contributing to the solution of illegal large-scale migration in Central Europe

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Monterey, California. Naval Postgraduate School

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# NAVAL POSTGRADUATE SCHOOL

## Monterey, California



## THESIS

**POLICIES CONTRIBUTING TO THE SOLUTION OF  
ILLEGAL LARGE-SCALE MIGRATION IN CENTRAL  
EUROPE**

by

Ivo Musil

June 2000

Thesis Co-Advisors:

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**POLICIES CONTRIBUTING TO THE SOLUTION OF ILLEGAL LARGE-  
SCALE MIGRATION IN CENTRAL EUROPE**

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**MASTER OF SCIENCE IN MANAGEMENT**

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## ABSTRACT

This thesis examines phenomenon of illegal large-scale migration in Central Europe after the 1989 when the world communist system was disintegrated. Large-scale illegal migration appeared as one of side effects of the development towards democracy and free market economy. This thesis identifies impact of different policies in areas of the legal and social environment, humanitarian aid and international development aid as well as measures in the area of international politics related to large-scale migration. Identification of solutions in terms of cost-effectiveness and political acceptability is one of conditions identified for future enlargement of European structures, especially adaptation of Central European countries by the European Union. Based on its nature, large-scale migration raise a number of challenges for public policy: refugee support and administration, crime control, labor market regulation with respect to the foreign labor force, and integration of increasingly diverse categories of migrants. The social and economic conditions of the transit countries such as the Czech Republic create favorable environment for migrants coming from East European and developing countries. However, there is still no successful and comprehensive official policy because of lack of experience of the Central European governments with migration, which has still more transit rather than immigration character.

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## **I. INTRODUCTION**

### **A. DESCRIPTION OF THE TOPIC**

After the 1989, disintegration of the world communist system happened abruptly and quickly. In Europe, the satellite states of the Soviet Union and its successors embarked on difficult and painful transitions to democratic societies, leading through fundamental political, legislative and economic changes. One of side effects of this unprecedented development towards democracies and free market economies in Central European countries was a tremendous increase in large-scale migration across international borders.

This research will attempt to evaluate the impact of the legal and social environment, humanitarian aid, international development aid and measures in the area of international politics on large-scale migration. The objective is to determine the effectiveness of evaluated areas as preventive tools against negative consequences connected with large-scale migration, especially with illegal immigration.

Illegal migration is defined by a migration legislation that specifies who may enter, and work legally and who is an illegal in a country. If there were no legal barriers for the entrance, stay or work of persons, illegal migration would not be an issue. There is a demand for illegal immigration by some interest groups. They influence the politico-economic process in such a way that migration laws are not enforced strictly and severely.

Finding the solution for the issue is not easy, indeed not even very likely at the present time. A realistic goal, however, could be to find at least a temporary working solution for each individual country. These countries struggle between their desire to be helpful on one side, and a need to protect their own interests on the other. Further, this thesis intends to contribute to standardization of dealings with local crises which cause migration, and to minimizing impacts on countries that are not directly involved. This could be done by identification of the most efficient solutions of large-scale migration in terms of cost-effectiveness. Consequently, examining the issue of dealing with migration is of strategic importance for intended EU membership, claimed by Central European countries.

## **B. IDENTIFICATION OF RESEARCH QUESTIONS**

This research has been oriented on solving the following research questions:

- What is the current status of illegal migration and responses to it in central europe?
- What is the potential impact of large-scale migration (legal and illegal) for Central Europe?
- What is the best solution for meeting EU standards related to migration?
- Is the so-called “humanistic approach” to large-scale migration defensible in terms of national interests of effected (host) countries?
- Is a qualified use of humanitarian and international development aid capable of solving causes, rather than consequences of large-scale migration?

The collapse of the bipolar world system and the end of the Cold War has brought qualitatively new problems to the countries of Central Europe. New approaches to the solution of various conflicts outside the region are required. New legislative norms are required as well as corresponding necessary measures to meet different local crises. This is considered to be one of basic conditions that Central European countries must meet in order to be accepted as new EU members.

This thesis will - hopefully - contribute towards development of procedures to evaluate different approaches to the problem of relations between illegal migration and to providing different kinds of aid to crisis areas. Finding the least painful solution to the problem is an issue of vital importance for transition economies in Central Europe. In terms of complying with the EU requirements, international law, humanitarian concerns, and limited resources, the issue of migration is likely to have a decisive impact on Europe in the next century.

### **C. INCENTIVES TO THE SOLUTION OF ILLEGAL MIGRATION**

There are various arguments relating to the problem of large-scale migration. Supporters of free migration use most frequently arguments of humanitarian concerns and common sense. Benefits provided by a cheap labor force for the national economy and a tradition of good relations with some nations play significant role as well. Opponents of uncontrolled migration often argue that increased requirements put a burden on social systems of host countries and cause increase of organized crime. In many countries a deeply rooted aversion towards certain migrating groups makes large-scale migration

undesirable. For Central Europe especially, the consequences of uncontrolled migration across national territory may provoke retaliatory measures by the EU against the transit countries. This is already reflected in the Schengen agreement, which makes member countries responsible for protection of their common borders with non-member countries.<sup>1</sup>

The scope of the thesis includes basic theory of conflict resolution in and outside of crisis areas, description of current situation connected with illegal migration in Central Europe and a review of future possibilities of solution to this problem.

Recommendations concerning improvement of the current legal environment and of measures in the field of humanitarian and international development aid may contribute to elimination of negative consequences of large-scale illegal migration. This research is focused on evaluation and comparison of different approaches to the relations between legal and illegal migration and on providing different kinds of aid to crisis areas. The result is a recommendation for the most efficient solution to the problem for Central European transition economies in terms of compliance with EU requirements, international law, humanitarian concerns and limited resources.

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<sup>1</sup> \_\_\_\_\_, *The Schengen Agreement*, Title 2, Chapter 2, Article 5.

## II. IMPACT OF LARGE-SCALE MIGRATION

### A. PROBLEM OF ASYLUM

#### 1. Recent Patterns and Trends in Asylum Procedures

While bloodshed or other disasters often happen very rapidly, the people affected often need a much longer time to reorganize their lives. Victims of wars, ethnic violence, or natural disasters often live suffering in oblivion. The United Nations statistics estimate their numbers on about 22 millions. Other sources estimate the number as high as 50 millions. In this case it would mean that one out of 120 inhabitants of the planet is a refugee.<sup>2</sup>

In response to this global problem, all developed countries manifest their willingness to help. Not all of them wish to share their material and cultural standards with a mass of newcomers, however. Finally, nearly all refuse to surrender their national identity as a consequence of an immigration flood.

The term 'asylum seeker' refers to individuals who requests asylum status in another state on the grounds of a justified fear of persecution in their country of origin, or because their life and liberty is threatened by armed conflict and violence. The countries that receive the largest number of asylum applications are the most developed countries of Western Europe. But so-called new democracies in Central Europe are also in the process

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<sup>2</sup> \_\_\_\_\_, *Svet marne zapoli s morem uprchliku*, Mlada Fronta Dnes 2/9/2000, p. 11.



of establishing structures and procedures that will allow them to examine the asylum applications.

In many situations, individuals submit claims to refugee status in countries where they already stay as residents, tourists, migrant workers or illegal immigrants. The total number of asylum applications received is thus usually higher than the number of people who request refugee status upon arrival.

The category of asylum seekers is an ambiguous one, in the sense that it includes some people who will ultimately be recognized as refugees, some whose claim will be rejected, and others who will be given some kind of residence permit, even if they are not formally granted refugee status. They are consequently protected by the principle which forbids states from returning people to countries where they might be at risk of persecution. Those asylum seekers who have passed through a refugee status determination procedure and whose claims have been definitively rejected, however, become subject to the normal immigration regulations of the state concerned.

## **2. State Response to the Asylum Issue**

In the 1950s and 1960s, relatively few asylum seekers and refugees from the low-income countries made their way to the world's wealthier states. The only large-scale movements into Western Europe, for example, took place as a result of the Hungarian uprising in 1956 and the Czechoslovak crisis of 1968. As a result of the post-war economic boom, moreover, foreign labor was in high demand, allowing large numbers of people from poorer countries to move to the wealthier states.

While much larger numbers of non-European refugees arrived in the developed countries in the second half of the 1970s, primarily from countries in Indo-China and South America, most of them were admitted by means of organized resettlement programs. It was not until the early 1980s that asylum seekers from countries in Africa, Asia, the Middle East and Central America began to arrive independently and in significant numbers. At around the same time, growing numbers of asylum seekers from the communist countries of Central and Eastern Europe also began to arrive in the West. Confronted with these flows, by the middle of the 1980s, almost all of the developed states expressed the opinion that they were experiencing an asylum crisis.

One of data describing the attitude of a particular country is so called recognition rate. 'Recognition rate' refers to the proportion of asylum seekers who are actually granted asylum status as refugees in the country. The relatively small proportion of asylum seekers who are granted either refugee status or humanitarian status in Central Europe has given rise to conflicting interpretations. For those who wish to impose stricter immigration controls, the low and declining recognition rate in the industrialized states is evidence of large-scale abuse of the asylum system. According to them majority of asylum applicants migrate for economic reasons. For many humanitarian organizations and analysts, however, the current recognition rates are a reflection of the increasingly restrictive refugee and immigration policies pursued by the world's most affluent societies.

### **3. Asylum Practices in Europe**

The situation in Europe was slightly different from that of traditional settlement countries such as the USA, Canada and Australia, in the sense that these states continued to admit large number of foreign nationals, both through regular immigration programs and by means of special refugee and humanitarian quotas. The fear of mass immigration was reinforced in the final years of the decade, when the collapse of communism led to a belief that massive numbers of people would move out of the former Soviet bloc.

After 1992 large numbers of asylum seekers from former Yugoslavia began to arrive in Western Europe. The cost of applications processing, and the sums of money involved in providing housing, social services and welfare benefits to asylum seekers, also became a growing concern to many governments. The desire of governments to reduce such expenditure conflicted very strongly with their commitment to the principles of refugee protection.

All developed states in Europe have individually and collectively introduced a wide range of measures relating to the arrival, admission and entitlements of people who wish to claim refugee status on their territory. In an attempt to limit the number of asylum seekers at source, the governments of the developed states have extended visa requirements to the nationals of many countries that produce significant numbers of asylum seekers and irregular migrants. Sanctions have also been imposed upon airlines and shipping companies responsible for the arrival of passengers who lack the necessary papers.

Measures have been also introduced in relation to travelers who have managed to reach their intended destination. In some cases, new arrivals have been prevented from disembarking and have been sent straight back to their own or another country. Certain states have established detention centers at international airports. More commonly, governments have introduced fast-track asylum procedures.

States have devised the notion of 'safe countries of origin'. Governments in Western Europe have determined that the citizens of certain countries are unlikely to have a genuine claim to refugee status because persecution is rare in those states. "Safe third country" concept assumes the right to refuse admission to asylum seekers if they have arrived via a country where their claim to refugee status might have been submitted. An associated initiative is to be seen in the introduction of readmission agreements. Under the terms of these agreements, asylum seekers can be deported from their country of final destination to their preceding country of transit, often in return for some form of financial assistance.

Germany is a prominent proponent of this approach, having concluded readmission agreements with Bulgaria and Romania in 1992, with Poland in 1993 and with the Czech Republic in 1994. Germany has declared all of its neighbors to be either safe countries of origin or safe third countries; it has effectively renounced responsibility for considering the asylum request of any person arriving in the country by land without a valid visa.

In some instances, it has been argued that asylum seekers should not be granted refugee status on the grounds that they had an 'internal flight alternative'. Rather than leaving their homeland in order to seek asylum abroad, they should have sought safety in



another part of their own country. Developed countries have tended to insist that asylum seekers must demonstrate that they have been singled out for persecution if they are to be granted refugee status.

While the problem of forced displacement has generally grown in scale, the number of international migrants has increased. The restrictive measures introduced by the developed European states appear to have had their intended effect. Especially member countries of the European Union have succeeded in limiting the number of asylum seekers arriving on their territory.

All sovereign states claim a legitimate right to regulate the movement of people into their territory. This right has to be consistent with international refugee law and humanitarian norms, however. Then, in reaction to changing trends in migration, the asylum systems of targeted countries are evidently in need of reform. Considerable numbers of people without any need for international protection clearly seek their entry by submitting claims for refugee status. Abuses take place especially in those European countries where generous support to asylum seekers is provided. In many cases migrants move from country to country, submitting successive (and in some cases simultaneous) claims to refugee status. It also becomes evident that only a small proportion of the applicants whose claims had been rejected actually returned to their country of origin. As a consequence, public confidence in the asylum procedure decreases and the environment does not favor either asylum seekers or refugees at all.

It had been claimed that the first safe country reached by the asylum seekers should be responsible for examining their application. Now when all European developed

(EU) states have introduced stricter refugee policies, the asylum problem is getting more urgent in other parts of the Europe. UNHCR offices in low and middle-income countries report a steady increase in the number of asylum seekers arriving from other continents. Also, the combination of tight admission controls and readmission agreements has led to a substantial increase in the number of asylum seekers who try to take advantage of soft regulations in the countries of the former Soviet bloc.

#### **4. Specifics of Asylum in the Czech Republic**

When evaluating strategic position of the country towards the problem of large-scale migration as such, it may be helpful to categorize and classify arriving individuals. This method does not intend to be discriminative; it can help to choose the best possible approach in each particular case.

Arriving migrants are likely to be eligible to qualify for one of following categories:

- refugees,
- economic migrants who intend to settle in the country,
- economic migrants who transit through the country.

When classifying, it is necessary to take into account particular population characteristics, immigration intent and reason, political situation in the country of origin, and political constraints. Following this classification each case may be handled appropriately, by being given proper treatment.

Between 1990 and 1999 there were 25,105 asylum seekers in the Czech Republic. There is a trend of significant increase in numbers every year. Asylum seekers have been nationals from as many as 65 countries. The highest representation among them are the nationals of Afghanistan - 32% (2,312 individuals), Sri Lanka - 13% (900 individuals), India - 12% (887), Yugoslavia - 9% (622), and Iraq - 5% (346). 76% of this number arrived from Asia, 19% from Europe, 4% from Africa and only 1% were individuals from other territories or without identified nationality.<sup>3</sup>

In 1999, there was a significant increase of asylum seekers. They represented 29% of the total since 1990. The most significant was increase of applicants from China (202), Pakistan (223), Syria (103), Turkey (108), Romania (124), Russia (244), and Moldova (97).<sup>4</sup>

Official numbers show in the example of the Czech Republic that majority of migrants ask for asylum status first, and consequently attempt to cross the border illegally again, even before the decision is done. Then it is possible to imply that this country is just a transit country for so called asylum seekers on their way to the West. Based on the statistics of deliberate departures, most of those just abuse the humanitarian system of asylum protection. Statistics show that those who most often deliberately leave the asylum procedure are nationals of China, Sri Lanka, India, Bangladesh, Iraq, and Afghanistan. On

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<sup>3</sup> \_\_\_\_\_, *Asylum seekers in 1999*, Czech Ministry of Interior – Statistics.

<sup>4</sup> *Ibid.*

the other side, as real asylum seekers can be citizens from the former Soviet Union and Bulgaria, who regularly follow the procedure until it is completed.<sup>5</sup>

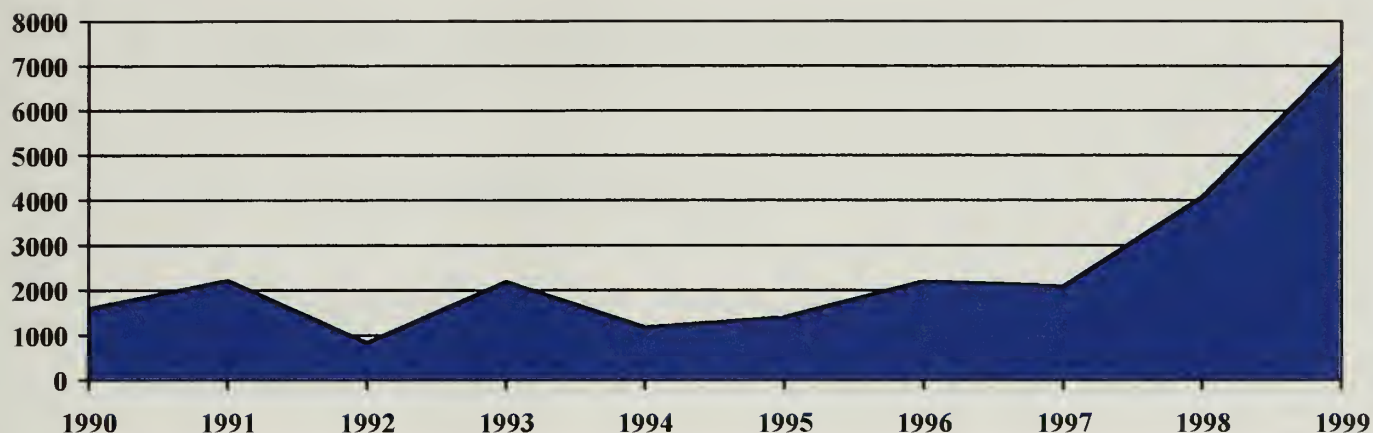


Figure 1. Number of asylum seekers in the Czech Republic 1990 – 1999

Out of the total of 7,219 migrants, who applied for the asylum status in 1999, only 80 individuals were granted the status. 1,870 applicants were declined after examining their case. Also, in 142 cases, previously granted asylum status was cancelled after concerned individuals got involved in criminal activities. (The total of above shown categories does not match to the total of applicants in 1999, as in some cases the asylum procedure lasts through two consecutive years.)<sup>6</sup>

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<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*





Number of cases	Regular procedure	After appeal	Total of category	% of total
Granted	52	28	80	1
Refused	1139	731	1870	20
Cancelled before decision*	7038	116	7154	79
Total	8229	875	9104	100

\* mostly deliberate departures

Table 1. Overview of asylum cases in the Czech Republic solved in 1999

## B. IMPACT OF LARGE-SCALE MIGRATION ON SOCIAL ENVIRONMENT

### 1. Basics of Migration Phenomenon

"Of all the flows that take place between nations, none is more sensitive than the flow of humans."<sup>7</sup> Because of its high sensitivity, issue of migration deserves to be carefully observed, examined and explained. Migration could be examined from different angles. In the first place focus is on the influence of social-political situation in regions exposed to important political challenges such as a war, coup and movements of population. The second one follows the efforts of the state, how it copes with migration processes, beginning with attitudes of state apparatus and ending with solutions of conflict situations.

One of the basic human values is a free will to choose a home, one's own place of residence. This determines that actions of an individual are a decisive impulse for migration. A migrant takes a free decision to leave his native environment and to get accustomed to another one. He also decides to take his fair share of responsibility for

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<sup>7</sup> Lindert, P.H; Pugel, T.A, *International Economics*, Irwin Mc Graw-Hill 1996, p. 547.



increased burden of his own resettlement by increasing his own initiative. Migration belongs to a standard of free societies, but its eventual success depends on individuals. Not everybody is determined to cope with this hardship.

For migration and emigration observed in the Central European environment, several phases of migration are evident. At first, there is a set of objective reasons that push a potential migrant from a country of his or her current residency. Other reasons pull him or her to an environment of another country. Along with these objective reasons, migrants' own subjective reasoning supports his or her decision to leave. Next is a transfer itself, which can significantly influence adaptation of a migrant in foreign environment of different ethnicity. Process of adaptation moves on through legalization of residency, finding a job and accommodating to social, cultural and language environment. Another important factor is a possibility of return to the home country. Also, migrants' own expectations confronted with reality contribute to the final result. The last phase is a definite one. It either decides about the success of assimilation, or it leads to another migration, sometimes even to a re-emigration.<sup>8</sup>

## **2. Legal Aspects of Large-Scale Migration**

The formal distinction between legal and illegal migration is very obvious: the former is within the laws and rules of a mostly nationwide valid migration policy, the latter remains outside. While the right to exit is a fundamental human right protected by international law, the right to enter a country remains a matter of national sovereignty.

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<sup>8</sup> Broucek, S., *K některým otázkám migrace na území České Republiky po druhé světové válce*, Ústav pro etnografii a folkloristiku 1997, p. 2.

Nation states lose one of their most fundamental constitutive rights if they resign to set rules as to what aliens are allowed to do (rights), what they are required to do (duties) or what they should do (orders). Politicians all over the world are anxious to keep control on entrance, residence and economic behavior of non-nationals. They know that their voters would not stand for an uncontrolled free immigration policy.<sup>9</sup>

If there were no legal barriers, like within the European Union, illegal migration would not be an issue. Basically, illegality of foreigners can arise from several causes:

- Foreigners can enter a country illegally. They can cross the border, either by avoiding border controls or by using false documents.
- Foreigners might have entered the country legally but they stay illegally. They enter with a tourist visa but do not leave and over-stay. Or they entered as asylum seekers and stay even if their application has been rejected.
- They also might lose their legal status as a consequence of administrative or political changes in granting residence permits.
- Foreigners could enter legally, stay legally, but they might work illegally.
- Immigration laws also need to be enforced. Enforcement can take place at the border (choosing the people who are allowed to pass) and within the country (checking the permit to reside or to work).

Enforcement, too, varies between individual countries as well as within the same country. In some activities with a very low supply of legal workers, rules and laws might be enforced less strictly. There is also a high incentive not to check too carefully the legality of people fulfilling activities that no natives want to do.<sup>10</sup>

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<sup>9</sup> Jahn, A., Straubhaar T., *A Survey on the Economics of Illegal Migration*, Universitat der Bundeswehr Hamburg and Centre for Economic Policy Research, London 1998, p. 5.

<sup>10</sup> *Ibid.*, p. 4.

Sometimes illegal migration follows legal immigration as soon as legal migrants have established themselves. This situation is extremely difficult to administer. Social and economic networks of legal migrants are important for the existence of illegal migrants who need the support to survive in their illegality.

The extent of illegal immigration depends on the ability and willingness of a country to enact its immigration laws. Among other things, this includes a permanent control for entry, exit, residence and working permits. Some countries tolerate illegal migrants more easily because they assume that they act only as transit hosts and that most of its foreigners are moving ahead to another destination country. This might be the case in Central European countries regarding the immigrants' movements to Germany. In opposite to this, some countries might have incentives to record too high figures to get international financial assistance or to legitimize political actions against illegal migrants.

Within the European Union, the Treaty of Amsterdam included the Schengen Agreement into the EU treaty and transferred some important responsibilities from the national to the common EU level, especially the decision to abolish internal controls of border crossings. At the same time however, the increased control over the external borders is required.

### **3. Illegal Migrants on the Labor Market**

The topic of illegal immigration receives more and more interest all over the world. Illegal migrants break laws and rules and clearly provoke the credibility of judicial systems and the confidence in the power and authority of constitutional settings. They also



challenge the public transfer system. Illegal foreign workers do not pay direct income taxes, but use on the other hand public goods or publicly subsidized services like schooling or medical treatments for their children. Illegals compete with legal workers for job opportunities but have the possibility to avoid certain obligations, costs, taxes and fees compulsory for the legal workers. On the whole, illegal employment of foreigners is the consequence of inefficiency of the labor market. Finding and eliminating the cause and nature of those inefficiencies presents the only possible long-term strategy to lower the economic incentives for illegal immigration. Only a good labor market policy is the strategy capable of fighting illegal employment.<sup>11</sup> These legal, economic and social reasons make it easily understandable why politicians and their voters are not willing to accept the phenomenon of illegal migration.<sup>12</sup>

Regardless of negative impacts on the host society, illegal migration exists and it is growing all over the world. This is not only due to the will of people from poor regions; there is also a demand for illegal immigrants. Some economic groups benefit from illegal migrants. They try to avoid direct labor costs, indirect social payments and costly regulations. The supply of and demand for illegal foreign workers create an economic market for illegal migration and a political market for the supply and demand of border controls and labor market regulations.

Illegal migration has to be analyzed within an economic framework but also with an understanding of the political economy behind the setting of laws and rules.

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<sup>11</sup> *Ibid.*, p. 2.

<sup>12</sup> *Ibid.*

In majority of all major industrialized democracies there is a wide and growing gap between the goals of national immigration policy and the actual outcomes.<sup>13</sup>

Political economists have looked at the interaction of different vested interest groups. They have analyzed the domestic demand and supply pattern for illegal migrants. They are interested in the mechanisms that create illegal migration. Labor market economists have concentrated on the question whether and to whom illegal migrants are a substitute or a complement and whether native skilled or unskilled workers and capital might benefit from illegal migration.<sup>14</sup>

There are several good political and economic reasons why democratic states accept unwanted immigration. They seem to be a result of misleading economic incentives generated by labor market regulations and social security systems. Income taxes and financial contributions to the social security system create a situation where an employee receives less than he or she earns and the employer has to pay more than he or she gets. As long as this exists employers and employees have the incentive to negotiate their real work contract without the government's involvement. On the other hand, the social security system allows natives to refuse lower paid jobs. If domestic labor is not available on the official labor market, employers have to accept illegal foreign workers.<sup>15</sup>

In developed countries certain number of immigrants is needed to offset the consequences of the decreasing native population. However, humanitarian concerns

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<sup>13</sup> *Ibid.*, p. 3.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*, p. 15.



impede any selective approach to immigration, which could lead to discrimination of certain groups or nationalities.

Especially in the case of the EU countries, foreigners are streaming in search of jobs. In Great Britain alone, 10,000 seasonal farm workers from Central and Eastern Europe are recruited each year. The British government lets these migrant workers stay only between April and November. But during that time, even at the minimum farm wage, they earn more than back home. They are cheap, but also skilled, reliable and qualified. Thus they work not only in farming but also in other industries and services. Only some of them make use of official work-permit schemes, others use services of traffickers.<sup>16</sup>

Most of EU countries have closed their door to primary migration from outside the Union, who wanted to stay and bring their families. In this situation citizens of new democracies in Central and Eastern Europe seem to be more acceptable than the other migrants. Known as cross-border commuters, they shuttle back and forth across an EU border supporting families outside it.<sup>17</sup>

Unlike commuting season workers, who do not intend to settle down completely, inhabitants of regions affected by domestic crises arrive attracted by relatively generous assistance to the migrants. Even a very basic subsistence allowance, provided e.g. by the governments of Great Britain or the Netherlands, is attractive in comparison to standards common in developing countries.

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<sup>16</sup> \_\_\_\_\_, *Europe: A Continent on the Move*, Economist April 2000, p. 2.

<sup>17</sup> *Ibid.*

In times of crises, it is clearly defined who refugees are. But even refugee agencies acknowledge that many others are fleeing poverty rather than persecution. By posing as refugees, the false asylum seekers are undermining the tolerance of Europeans for those who genuinely need protection. Then, aversion of some EU member countries causes shift not in the overall numbers of applications for asylum in the EU, but in their distribution. This is because asylum-seekers shop around for the best deal.<sup>18</sup> As there is no EU policy on refugees, then the chances of being accepted vary across the Union.

#### **4. Criminality of Large-Scale Migration**

Targeted (destination) countries carry out specific policies towards countries generating migration. The latter generate large-scale migration by a mixture of economic deprivation and demographic explosion. As a response, regulatory migration measures allow opening the borders according to the needs of the receiving country and closing them when the competition with nationals on jobs, houses and education, drives towards xenophobic reactions and loss of political consensus.

No less important are crime control policies against organized crime connected with large-scale migration. Then, the relation between migration and crime could be interpreted as the social cost that societies are paying for allowing migration.

Not all the illegal emigrants are the same. Some travel to another countries and find themselves unable to return and some people escape abroad, after some act of crime. Others are illegal from start to finish; to leave the country without a permit from the

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<sup>18</sup>*Ibid.*, p. 8.

government might have been an offence, the form of transit might be illegal and the residence in the host country might be illegal. The International Center for Migration Policy Development in Vienna, estimated that of the 690,000 asylum arrivals in Western Europe in 1993, more than half were not in actual need of protection, abusing the admission procedure meant for refugees to enter the labor market.<sup>19</sup>

Criminal behavior in the host country is more likely among those individuals who are less integrated in a social network. Among refugees extortion often takes place when migrants are asked to make 'donations' or pay 'taxes' to militant groups at home. The case example of such practices is that of so called 'Kosovo Liberation Army,' when brutal pressure was used against those Yugoslav citizens of Albanian nationality living abroad, who were reluctant to pay required contributions.

As a consequence, in many European countries, the number of foreigners responsible for certain forms of crime is well above their share in the total population. Foreigners are over-represented in prisons; their absolute and relative numbers are increasing and detention rates are higher than those of native citizens.<sup>20</sup>

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<sup>19</sup> Savona E., Goglio S., *Migration and Crime*, Transcrime Working Paper N.3 March 1996, p. 3.

<sup>20</sup> *Ibid.*, p. 5.

Criminality of foreigners related to total number of crimes <sup>21</sup>						
year	1994	1995	1996	1997	1998	1999
% of total	6.88	7.14	6.80	6.41	6.79	7.17

Table 2. Share of foreigners in common criminality in the Czech Republic

## 5. Reaction of Affected Countries to Large-Scale Migration

Countries affected by large-scale migration react in the way that corresponds to their national tradition, economic situation and external political pressure. There are various ways how nations react to the danger of migration flood.

On november 8, 1994, the voters of california infuriated many mexicans. They voted to implement proposition 187, which denies education, health, and other public services to the families of those who recently immigrated illegally into the united states. America was not alone in having second thoughts about welcoming immigrants in the 1990's. In 1993, germany revoked its long-standing constitutional provisions guaranteeing safe haven to political and religious refugees from other countries. Forced to welcome all its new compatriots from east germany, the nation feared it could not accommodate the pending flood of refugees from the chaos in eastern europe. France remained tense about its muslim immigrant population. In austria, the freedom party scored big election gains with the anti-immigrant campaign. There will be fights over immigration as long as there

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<sup>21</sup> \_\_\_\_\_, *Statistické přehledy, Kriminalita v roce 1999*, Czech Ministry of Interior 2000.

are national borders. The fact of nationality makes people care less about compatriots, so that they will struggle to keep some people out of the country.<sup>22</sup>

In the early 1990's, chaos in Eastern Europe and in the Balkans sent floods of refugees to Central and Western Europe. West European countries put up new immigration barriers in response.

Because of political reasons, the migration issue does not offer any clean and simple solution. On one side, simply stopping immigration or emigration is not feasible. It would harm business, offend domestic ethnic groups, human rights activists and also some foreign governments. Also, stopping all immigration would practically require an existence of a police state. On the other side, simply allowing free migration regardless of national interests is politically unacceptable as well.

For migrants the uncertainty is great, but the average gain is high. They risk. Many of them find later a better income and freedom which they did not enjoy before. Others return home unsuccessful. Allowing full freedom for migrants brings some costs to non-migrants, however. In the sending country, emigrating people wound national pride and bring economic losses to those who stay. The society then may demand compensation.

In the receiving countries, ethnic prejudice, xenophobia and economic interests of groups who fear competition from immigrants make the issue sensitive. Lobbying by employers and human rights activists representing their interests is usually not strong

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<sup>22</sup> Lindert, P.H., Pugel, T.A, *International Economics*, Irwin/Mc Graw-Hill 1996, p. 3.



enough to balance prevailing opinion of the society. The assessment whether immigrants contribute more in taxes than they consume from other taxpayers contributes to final prevailing opinion of the majority.<sup>23</sup>

These are main findings of the empirical studies, as listed by Lindert and Pugel:

“Freer migration makes wage rates in the migrant-related occupations more equal between countries. Directly competing workers in the receiving countries do have their pay lowered, relative to less immigrant-threatened occupations and relative to such non-labor incomes as land rents. However, these directly competing workers are fewer in number than most people think because immigrants tend to take jobs that are increasingly unpopular with natives of the prosperous receiving countries.”

Immigrants catch up partly within their own lifetimes, but not completely. Numerous studies have traced their convergence toward the better pay enjoyed by native-born workers, but the deficit is not eased in the first generation after migration.”<sup>24</sup>

## **6. Impact of Large-Scale Migration on Public Finance**

There are significant effects of migration on public finance. Migrants stop paying taxes in their countries of origin, but they face new taxes at their destination. They also switch from old to new rights to such transfer payments as unemployment insurance, social security, and ordinary welfare payments. By changing countries they may forfeit

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<sup>23</sup> *Ibid.*, p. 548.

<sup>24</sup> *Ibid.*, p. 553

some accumulated entitlements, such as public pensions and social insurance, without being entitled to the same in the new country.

For the sending country, the loss of future tax contributions from the migrants is likely to outweigh the relief from having to share public goods and services with them. The likelihood of a net fiscal drain from emigration is raised by the life-cycle patterns of public goods. People tend to migrate in early adulthood, just after they have received some public schooling at taxpayers' expense. They will not be available to pay taxes from their adult earnings. The sending country, then, suffers a public-finance loss from having people migrate. For the receiving country, it is widely suspected that immigrants are a fiscal burden, employing social welfare system, using public schools, and rising police costs more than they pay back in taxes.<sup>25</sup>

There are also other possible effects that migration could generate. For receiving country, knowledge benefits are provided by migrants who bring specific knowledge, which has economic value and is not available or usual in the country, like food recipes, artistic talent, farming practices, unusual technologies. On the other hand, there are congestion costs associated with increased crowding, like extra noise, conflicts and crime.

All this encourages social friction within the society. One possible way of society's response to the problem is to work on changing the prevailing attitudes themselves. Another is considering how much immigration and what kind of immigration to allow, and imposing restrictions on that migration which could cause social unrest.

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<sup>25</sup> *Ibid.*, pp.. 556-557.

Just by being selective, a country can ensure that immigrants are not a net drain on the government budget. It can allow only individuals with certain skills, wealth and good criminal record, ensuring that they will become taxpayers rather than burdens on the social support system. Such selectivity would probably hold down the total inflow, making the average immigrant more acceptable at the same time. On the other hand, certain activist groups within the country, as well as certain interest groups outside the country, could feel uncomfortable, arguing that the country does not contribute enough to solving problems abroad.<sup>26</sup>

## **7. Specifics of Transit Countries**

Countries chosen as final destination of migrants are not the only ones affected by illegal migration. Transit countries are also affected by side effects of illegal migration. like increased criminality and loss of international credibility when failing to control state borders. In Western Europe each country faces its own specific problems. In general, immigration pressure is regarded to be a bigger problem for Germany than for Southern Europe. Nowadays, even countries of Central Europe like the Czech Republic, Hungary and Poland are becoming target countries for illegal immigration due to the wage gap with its neighboring countries. These countries are used as transit countries. But some transit migrants stay longer than they originally wanted and start to work in the shadow economy.<sup>27</sup>

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<sup>26</sup> *Ibid.*, p. 560.

<sup>27</sup> Jahn, A., Straubhaar T., *A Survey on the Economics of Illegal Migration*, Universitat der Bundeswehr Hamburg and Centre for Economic Policy Research, London 1998, p. 6.



There are two extreme solutions to the illegal migration. One is to reduce or even stop illegal immigration at the borders or within the country by a stronger enforcement of residence and work laws. The other is to accept that illegal immigrants are an increasing phenomenon in the era of globalization.<sup>28</sup>

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<sup>28</sup> *Ibid.*, p. 14.

### **III. LARGE-SCALE MIGRATION IN CENTRAL EUROPE**

#### **A. SPECIFIC SITUATION OF MIGRATION IN CENTRAL EUROPE**

##### **1. Problems of New Democracies with the Phenomenon of Large-Scale Migration**

There are specific problems characteristic for new democracies in Central Europe that distinguish qualitatively new category of countries participating in the phenomena of international large-scale migration. These countries do not face any really serious and formidable problems that could generate migration of their nationals abroad. Nor are they attractive enough for migrants from regions troubled by economic underdevelopment, political instability or armed conflicts. Those who shop around for new perspectives see their future in countries of the European Union, where material standards are higher. Then, Central Europe serves like transit territory between unstable Balkans, East Europe or Asia on one side, and rich developed West Europe on the other. Being used as transit countries, new democracies spend significant resources without solving, neither causes nor consequences of migration.

Without effective control over national border that was abandoned as a feature of totalitarian society, countries cope with the problem of migrants illegally penetrating through the border, or arriving openly and declaring themselves refugees. In both cases migrants just fool the system following their only real goal, continue to the West. Governments of Central European countries then balance between demonstrating humanitarian attitudes towards migrants and trying to avoid retaliation from Western



European countries that view governments of transit countries as supportive to illegal migrants.



Figure 2. Map of Central Europe.<sup>29</sup>

## 2. Migration on Czech Territory after WW II

Even though the transit problem is not older than the time elapsed after fall of communist regimes, there is a relatively unknown tradition of successfully handled large-scale migration on Czech territory during last sixty years.

<sup>29</sup> [http://www.lib.utexas.edu/Libs/PCL/Map\\_collection/europe/C\\_Europe\\_pol96.jpg](http://www.lib.utexas.edu/Libs/PCL/Map_collection/europe/C_Europe_pol96.jpg)



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Reviewing history of migration on the territory of the Czech Republic after WW II, which is a typical case similar to those of neighbor Central European countries, four major migration waves on the territory of the Czech Republic between 1945 and 1989 may be observed: expulsion, emigration, re-emigration and immigration.

Expulsion: After WW II, in reaction to outcomes and as a part of the peace resolution, 3,200,000 Germans and 90,000 Hungarians were expelled during 1945-47. The expulsion of these Germans especially, based on assumptions of collective guilt of the German nation, is hardly defensible in light of present human rights standards.

Emigration: There was a significant external migration of about 500,000 Czechoslovak citizens after W.W.II. This could be divided into three categories: legal emigration, illegal emigration, and exile (understood as emigration in reaction to political pressure after the communist coup in 1948 and the Soviet-led occupation of 1968). There were two major waves in this category, 1948-67 (250,000 people) and 1968-89 (another 250,000).

Re-emigration: During the period between 1945-50, about 220, 000 foreign Czech and Slovak nationals from Hungary, USSR, Romania, France, Austria, Poland, Germany, Yugoslavia and other countries decided to return to Czechoslovakia. Most of them took over the property abandoned by the expelled Germans. There were two categories of re-emigrants: those, who arrived within the framework of official operation, coordinated by the government. They were granted full citizenship immediately. Those, who arrived individually, were subjected to different rules.



Immigration: Different groups of foreign nationals arrived between 1945-89. Among the major groups were Bulgarians. 12,000 of them were agriculture workers who came between 1946-47 and settled in border territories abandoned by the expelled Germans. 4,000 Bulgarian construction workers arrived in 1957. Between 1949-50 12,000 Greeks arrived in consequence of the Greek civil war.

Large groups of Vietnamese arrived beginning in 1967 (2,100 individuals); the largest group of 22,000 was recorded in 1984. Smaller groups of temporary foreign workers between 1948-89 arrived also from Cuba, Nicaragua, Angola and North Korea.

In the 1980's the number of all foreign nationals permanently living in Czechoslovakia totaled about 37,000.

Along with these foreign nationals, significant number of people migrated also within Czechoslovakia. During 1950-91 about 670,000 people (also Slovaks but mostly gypsies) moved from the eastern part of the country (Slovakia) to the territory of the present Czech Republic.

After the split of Czechoslovakia in 1993 other waves of foreign immigration appeared. Most of these people were Slovaks (attracted by working economy), Gypsies (utilizing relatively generous social system), Ukrainians (highly appreciated labor force), Poles (mining experts), Vietnamese (shadow economy), and Russians (workers but also rich businessmen). Smaller numbers of foreigners working on Czech territory were citizens



of Yugoslavia, China and USA. A small group of citizens from EU countries who work for multinational companies was represented as well.<sup>30</sup>



Figure 3. Map of the Czech Republic in 2000.<sup>31</sup>

## B. CASE EXAMPLE OF CHINESE MIGRATION TO CENTRAL EUROPE

### 1. Characteristics of Chinese Migration

Formerly, there were organized arrivals of labor force for centrally controlled command economy. Those were based on bilateral agreements between communist governments. Nowadays, new patterns in large-scale migration to Central Europe arise. Immigration is based on initiative of individuals and private organizations that make profit

<sup>30</sup> Broucek, S., *K některým otázkám migrace na území České Republiky po druhé světové válce*, Ustav pro etnografii a folkloristiku 1997, p. 4.

<sup>31</sup> <http://www.nationalgeographic.com/resources/ngo/maps/atlas/europe/czechrem.html>.



of it. An illustrative example is the case of Chinese immigrants who become unique in terms of social organization, enterprise involvement and self-sufficiency. Limitation of their activities to their own nationals makes the control over them extremely difficult for the law enforcement bodies of respective host countries.

Regardless of the considerable publicity concerning the irregular migration of Chinese nationals to the West through Central and Eastern Europe, Chinese migration to Central and Eastern Europe represents a rather new pattern, distinctive from some other forms of migration to the region. Official figures suggest that the Chinese represent only a small portion of the total number of foreigners in the Czech Republic, Hungary, Poland, and Slovakia.<sup>32</sup>

The importance of Chinese migration is not in their total numbers, percentage share of shadow economy or criminality. It is just a good example of previously unexpected and unpredictable situation that legal system of Central European countries is short to solve effectively. Many Chinese migrants moved into the region mainly to profit from new business opportunities arising from the region's transition to market economies. This explains why besides the expected route to the region through Russia, there are also cases of Chinese moving from West to East.<sup>33</sup>

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<sup>32</sup> \_\_\_\_\_, *Chinese Migrants in Central and Eastern Europe: The cases of the Czech Republic, Hungary and Romania*, International Organization for Migration 1995, p. 2.

<sup>33</sup> *Ibid.*



## 2. Incentives and Conditions for Chinese Immigration

Initially, governments in the Central European region facilitated this process by making it relatively easy for the Chinese to enter their countries without a visa, and to set up a business there with only a modest capital investment. Although concern has been expressed about the establishment of fake Chinese companies to smuggle migrants through Central and Eastern Europe, there is also evidence of legitimate and successful business activities. Unlike other migrant groups in the region, the Chinese tend to have a standard of living well above the average for the local population. The arrival of a new wave of Chinese migrants in Central and Eastern Europe after 1989 raised a considerable concern among law-enforcement structures in charge to combat smuggling of immigrants. There is a suspicion that Chinese nationals are using Central and East European states as transit countries to enter the West illegally.<sup>34</sup>

Traditionally, reasons for migration are analyzed in terms of "push" (negative conditions at the country of origin contributing to migration) and "pull" (positive conditions at the country of destination contributing to migration) factors.<sup>35</sup> Then, emigration is often explained by both the migrants' need to escape poverty, and the desire to move to a wealthier country. There is a common perception in China that greater opportunity and prosperity exists elsewhere else. Chinese migrants typically arrive in

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<sup>34</sup> *Ibid.*, p. 3.

<sup>35</sup> Hendricksen, C., *Glossary of Migration Terms*, University of Washington 1995, p. 6.

Central and Eastern Europe with a considerable sum of money. Thus they are not predominantly drawn from the poorest parts of Chinese society.<sup>36</sup>

Migration from China is expensive. Migrants have to pay bribes to obtain the necessary papers from Chinese officials, which will enable them to leave the country. Then there is the cost of travel. Payment may also have to be made in order to obtain an "invitation letter" to a Central or East European country. In order to migrate, a migrant often has to obtain the necessary funds from his extended family or local community. Financial support is provided with the expectation that the migrant will be able to assist others to migrate to the destination country. The migrant may also be expected to send remittances back to China.<sup>37</sup>

Few of the migrants fit the definition of refugees. Although some migrants disliked the political system in China, their decision to leave China does not seem to be particularly politically motivated. A key factor that attracted the Chinese to Central and Eastern Europe was the easing of entry requirements. After 1990 Chinese migrants were attracted to these areas for sound business reasons. More recently, the low level of unemployment, together with real wages that are among the highest in Central and Eastern Europe, have made the Czech Republic a favorable destination for many migrant workers. A key consideration for migrants was that Czech government allowed them to obtain a residence permit fairly easily if they invested a relatively small amount of money in establishing a

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<sup>36</sup> \_\_\_\_\_, *Chinese Migrants in Central and Eastern Europe: The cases of the Czech Republic, Hungary and Romania*, International Organization for Migration 1995, p. 4.

<sup>37</sup> *Ibid.*, p. 11.



business. This was the only way in which most migrants could work legally in Central and Eastern European countries. As unemployment began to rise in these countries, their governments became increasingly reluctant to issue work permits to foreigners. In the Czech Republic, for example, the law regulating issuing of trade licenses did not differentiate between the locals and the foreigners. A minimum investment of only US\$ 3,900 is required to register a company. A trade license, once issued, was valid for five years.<sup>38</sup>

Many migrants were not attracted to Central and Eastern Europe solely for business reasons. For some, businesses were established merely as a means to achieve another goal, namely, the transportation of migrants to Western Europe and then perhaps to North America. Many of these companies have never functioned. They usually claimed to be wholesale or retail shops. Although the police were often aware of the situation, it was extremely difficult to find evidence of their illegal activities.

### **3. Specifics in Trafficking of Chinese Migrants**

Many migrants knew very little about Central Europe before coming to the region. Prior to leaving China, very few migrants had the benefit of access to reliable and accurate information about living and working conditions in Central Europe, about migration policy and legal migration opportunities in Central and Eastern European countries, as well as in neighboring Western countries.

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<sup>38</sup> *Ibid.*, p. 12.

The Chinese government has neither an official policy nor a channel for information dissemination to prevent irregular migration. Nevertheless, many migrants obviously continue to maintain good relations with state-run enterprises in China. China's rapid population growth and their government's effort to regulate internal migration are linked. Some officials go as far as to suggest that the Chinese government may actually view the emigration of its citizen as a useful 'safety valve' to mitigate the intractable effects of overpopulation, widespread unemployment and substantial internal rural-to-urban migration.<sup>39</sup>

Contrary to what might be expected, there has been some movement of Chinese migrants from West to East. There are two main reasons for their decision. First is that they were no longer able to continue to reside in the West. The other reason was that they were particularly attracted by new economic opportunities associated with the transition from a planned to a market economy in Central Europe.

Chinese migrants, unlike many immigrants from other countries, have not entered Central and Eastern Europe at the bottom of the social and economic hierarchy. They have not been recruited to do manual jobs that local workers are unwilling to do. This is partly because it would be very difficult for them to enter these countries as employees in the first place; it is much easier for business managers to obtain a residence and a working permit.

According to the official statistics, very few Chinese are apprehended either trying to cross international borders illegally, or found without valid legal papers. However, 30

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<sup>39</sup> *Ibid.*, p. 15.

per cent of the Chinese who were caught had used the services of a trafficker; it is the highest proportion for any national group. Moreover, concerning a huge human trafficking network linked to Chinese restaurants in the country, the Czech Republic is mentioned as a key transit country for the network's operations. According to migration officials specializing in combating human trafficking, the reason why so few Chinese are apprehended is that they employ the most sophisticated techniques to cross borders illegally. It involves a sophisticated network of trafficking routes and bases, often camouflaged as Chinese restaurants, Chinese shops or Chinese laundries. Central Europe is regarded as an important transit area between the East and the West for illegal migrants, especially for the Chinese. These operations use well equipped forgery workshops to falsify all necessary documents, react flexibly to modifications, possess operation centers, hideouts and accommodations in all potential transit countries, are financially strong and are therefore in a position to use large sums, e.g. for bribes. They are often active in other areas of crime, including organized crime.<sup>40</sup>

Most of Chinese migrants in Central Europe desire to move to the West. The most favored destinations are the USA and Germany. The "Push" and "Pull" factors affect migrants' desire to leave Central and Eastern Europe. Although many were attracted by the prospect of higher living standards in the West, they also face economic difficulties when starting and running a successful business. Other migrants realize that living abroad as a foreigner is not as attractive as they thought it would be. Migrants feel that while life in the West has many attractions, it is more difficult to be successful in business there than

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<sup>40</sup> *Ibid.*, p. 21.

in Central Europe. The main reason for staying in Central Europe seems to be economic; it is easier for them to be successful in the emerging market economies of the region. As in some other parts of the world however, Chinese immigrants show few signs of integration into host society.

Few Chinese are caught crossing Central and Eastern European borders illegally, and relatively few Chinese, compared to other nationalities, have been found residing illegally in these countries. However, trafficking and illegal migration are criminal activities that cannot be easily studied. Many migrants who wanted to transit through Central and Eastern Europe have already left the region.<sup>41</sup>

## **C. IMPACT OF CRISES IN DIFFERENT PARTS OF THE WORLD ON MIGRATION TO CENTRAL EUROPE**

### **1. Illegal Crossing of Borders**

Crises in different parts of the world have significant impact on migration to Central Europe. As it is not easy to predict all the possible consequences of each particular crisis, it is not possible to develop one simple solution for preventing large-scale migration from remote territories where direct influence of Central European countries is minimal. Therefore illegal migrants violating national borders maybe the first visible impact affecting states that did not feel involved in the conflict or crises before.

The definition of illegal migration varies considerably worldwide. This part describes illegal migration of aliens as well as of Czech citizens, including cases where an

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<sup>41</sup> *Ibid.*, p. 26.

alien illegally enters the territory of the Czech Republic for various reasons, or leaves its territory in an illegal way.

During the period 1993-1998, approximately 181,000 individuals were detected when illegally crossing the state borders of the Czech Republic or evidently attempting to do so. The occurrence of events relating to the state border protection is increasing together with the number of persons involved in individual cases. In the course of 1998, 10,392 events in connection with the state border protection were reported, in which 44,672 illegal migrants from 99 countries worldwide were involved. It is an increase of 52.3 per cent, compared to 1997. The situation in 1998 was particularly influenced by the conflict on the territory of the Federal Republic of Yugoslavia in the Kosovo area, resulting in high numbers of the Yugoslav nationals who illegally crossed the state borders of the Czech Republic.<sup>42</sup>

Most illegal migrants were detected when crossing the state borders out of the Czech Republic. In 1998, a total of 37,142 illegal migrants were detected leaving the Czech Republic, while only 7,530 persons were detained when entering the territory of the Czech Republic. Majority of migrants were detected at the state border between the Czech Republic and the Federal Republic of Germany, in transit to Germany. The only decrease reported in both absolute and relative numbers of illegal migrants, as compared with the year 1997, was at the state border between the Czech Republic and Poland. In spite of an increase in absolute figures, the percentage of individuals detained at the state

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<sup>42</sup> \_\_\_\_\_, *Information on the Migration Situation in the territory of the Czech Republic in 1998*, Ministry of Interior of the Czech Republic, Official Document, p. 2.







border between the Czech Republic and Slovakia, as well as between the Czech Republic and Austria has remained almost unchanged.<sup>43</sup>

## 2. Representation of Illegal Migrants' Nationalities

When examining the issue of illegal border crossings, as shown on the Figure 4<sup>44</sup>, analysis of national representation among these illegal migrants might be helpful in order to identify most important crisis areas generating large-scale migration.

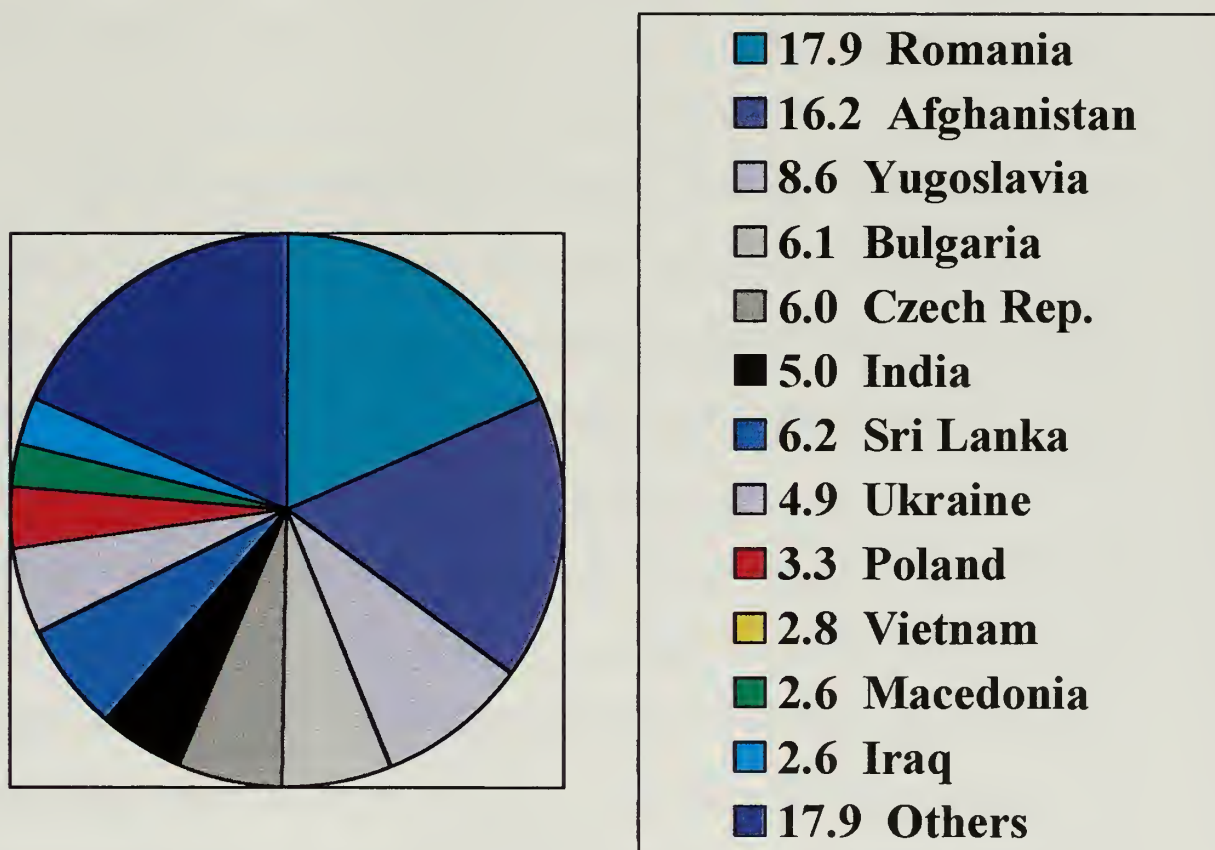


Figure 4. Nationalities of detained illegal migrants crossing Czech state border in 1999 (100% = 32, 325 individuals)

<sup>43</sup> *Ibid.*, p. 3.

<sup>44</sup> \_\_\_\_\_, *Statistics*, Czech Ministry of Interior 1999.



Among these illegal migrants Europeans prevail, followed by migrants from Asia. Majority of the total number of aliens who were detected when illegally crossing the state borders of the Czech Republic was subject to the visa policy for entry and residence.

As a consequence of the situation on the territory of the Kosovo province the nationals of Yugoslavia hold primacy in the statistics. The percentage of nationals of other countries, particularly Afghanistan, India, Iraq and Romania was significant as well.

German authorities did not return some Romanian and Bulgarian nationals who illegally crossed the state borders back to the Czech Republic. Considerable portion of these was returned by air directly to their countries of origin.<sup>45</sup>

The percentage of Yugoslav nationals illegally crossings borders in 1998 amounted almost to 36 per cent. Nearly all of them stated to have come from the Kosovo area. Directions of illegal migration of the nationals of the Federal Republic of Yugoslavia correspond to their efforts to use the Czech Republic as a transit territory to West European countries, where many of them have relatives.<sup>46</sup>

Nationals of the Federal Republic of Yugoslavia are subject to the visa policy, and many of them get in to the Czech Republic in an illegal way, mostly crossing the state borders between the Czech Republic and Slovakia. Out of the total number of Yugoslav nationals who tried to cross the border illegally, significant share were detained when attempting repeatedly, in large groups, or using the services of a facilitator, eventually

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<sup>45</sup> \_\_\_\_\_, *Information on the Migration Situation in the territory of the Czech Republic in 1998*, Official Document, Ministry of Interior of the Czech Republic, p. 5.

<sup>46</sup> *Ibid.*, p. 6.

misusing a travel document of another country. Many of them did not possess any travel document at all.<sup>47</sup>

Other considerations also confirm continual transit character of the Czech Republic for migrants on their way to the West European countries. Most individuals, who cross the state borders of the Czech Republic in organized groups, are detained on the border of the Czech Republic with Germany. These groups consist mostly of one nationality and are frequently organized by traffickers.

### **3. Readmission of Detained Migrants**

Currently, the Czech Republic has readmission agreements with all its neighboring countries, and with Bulgaria, Canada, France, Hungary, Romania, and Slovenia as well. In addition, the general commitment to readmit own nationals is declared in agreements on abolishing the visa duty with Belgium, the Netherlands, Luxembourg, Bulgaria, Denmark, Estonia, Chile, Croatia, Iceland, Israel, Cuba, Cyprus, Lithuania, Latvia, Hungary, Federal Republic of Germany, Norway, Poland, Romania, Greece, Singapore, Slovakia, Slovenia, Sweden and Switzerland.<sup>48</sup>

Presently, in the area of illegal migration the number of persons readmitted by the Czech Republic exceeds the number of those who are admitted by the neighboring countries. In 1998, the Czech Republic readmitted 19,137 individuals from the neighboring countries, while only 3,818 individuals were readmitted by the Federal

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<sup>47</sup> *Ibid.*, p. 7.

<sup>48</sup> *Ibid.*, p. 9.

Republic of Germany, Austria, Poland and Slovakia from the Czech Republic. The largest numbers of persons were readmitted from Germany, nearly 90 percent of the total. The Czech Republic returned most persons to Slovakia, nearly 85 percent of the total.<sup>49</sup>

## **D.     TRAFFICKING IN OF MIGRANTS**

### **1.     Organized Crime in Trafficking**

Every year millions of persons move to other countries because of extreme poverty, risk of persecution, or becoming a victim of civil or international war. At the same time the migration policies and regimes of many receiving countries have become more selective and restrictive, leaving little possibilities for people to migrate legally.

The restrictive asylum practices introduced by many states of Western Europe have converted what was a relatively visible and quantifiable flow of asylum seekers into a covert movement of illegal migrants that is even more difficult for states to control. Illegal movements are increasingly arranged and organized by professional traffickers. The routes which traffickers use most frequently include those states in which large numbers of asylum seekers and other migrants find themselves stranded.

Traffickers are active in most parts of the world, helping people to move to Western Europe. Migrants from Asia, Africa and the Eastern Europe are generally moved to entry points in Western Europe. For the clients of trafficking organizations, physical insecurity and financial exploitation are constant risks. As the penalties for trafficking have grown, the conditions for migrants have worsened.

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<sup>49</sup> *Ibid.*



The covert nature of trafficking inevitably means that it is drawn into the criminal world. Stealing and forging travel documents, work and residence permits have become an important industry. To get people across borders, it is often necessary to pay bribes to the police, immigration officers and local government officials. Migrants who manage to reach their intended destinations often find that they have to turn to crime to pay off their debts to traffickers; this may mean transporting or selling drugs for criminal organizations. The trafficking of women and children for prostitution is another clear link between the criminal underworld and the irregular movement of people.

Given these conditions, an increasing number of persons try to enter receiving countries illegally. In a growing number of cases the services of traffickers are sought in order to bring emigrants across international borders.

Trafficking has grown significantly in the 90s and become an increasingly global business. Highly organized trafficking networks that have previously been involved with other criminal activities have moved into the field of migrant trafficking. Taking advantage of the technological change in the information sector and the mobility that comes along with the advancing transportation, criminal organizations have extended their activities internationally.<sup>50</sup>

According to the definition by the International Organization for Migration, three types of traffickers can be distinguished. First, there are the so-called amateur smugglers, who occasionally earn money by providing transportation to irregular migrants. For them

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<sup>50</sup> Heikinen H., Lohrmann R., *Involvement of the Organised Crime in the Trafficking in Migrants*, International Organisation for Migration October 1998, p. 1.



trafficking is a minor source of income and is rather occasional. Second, there exist small groups of well-organized criminals who specialize in specific routes through which they smuggle migrants. The third group of migrant traffickers involves the well-organized criminal groups that form international trafficking networks. These international criminal groups are complex and more organized. They are also involved with various other criminal activities, such as drug trafficking, money laundering and document falsification. They are highly mobile, adaptable and able to operate across national borders.<sup>51</sup>

New international criminal organizations have emerged in recent years. It is partly a result of the changes in global politics and economics. The increased interdependence between nations, the ease of international travel, transportation and communications and the globalization of international exchange have facilitated a worldwide market for new types of criminal activities. The trafficking of illegal immigrants has become one of the growth industries of the nineties.

Organized crime bases its enterprises on economic principles; the primary factor is the markets' demand for services. The activities of organized criminal groups are based on the equation of the cost of providing a service, factoring the risk and calculating profit. In the case of migrant trafficking, the cost of providing the infrastructure for the service is minimal, the risk is low and the potential profits are high. Migrant trafficking is also attractive to organized crime because of the alleged low risk of sanctions compared to e.g.

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<sup>51</sup> *Ibid.*, p. 2.

penalties for drug smuggling or trade. Therefore, it can be an extremely productive activity without major risks.<sup>52</sup>

## **2. Trafficking of Women for Prostitution**

Trafficking of women for prostitution is a very specific branch within aggressively developing trafficking industry. When women are trafficked, several different laws may be broken. There are crimes the victim may be guilty of, particularly living or working in the country of destination without the necessary permits. The trafficker may be guilty of smuggling migrants, falsifying documents, kidnapping, living off the earnings of a prostitute, extortion, and so on.

The Netherlands was the first country to introduce a temporary residence permit for victims of trafficking of women for prostitution. Since August 1988 a residence permit is granted to victims of this trafficking for the duration of the investigation, the prosecution and trial. In 1993, this provision was extended to witnesses who were willing to testify for the prosecution in cases of this trafficking. Similar measures have being also adopted in Belgium. There a permanent residence permit can be given to a victim as a reward for evidence used in the prosecution against a trafficker or on humanitarian grounds.<sup>53</sup>

In the sending countries few measures have been taken by governments to combat trafficking, although there is increasing concern about the problem. There is lack of social,

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<sup>52</sup> *Ibid.*, p. 5.

<sup>53</sup> \_\_\_\_\_, *Trafficking and prostitution: The growing exploitation of migrant women from Central and Eastern Europe*, Migration Information Programme, May 1995, p. 2.

medical, legal and psychological assistance available to trafficked women. Independent NGOs have only limited funds to provide an adequate range of services and governments mostly do not service the problem at all.

Greater international co-operation to combat illegal migration and organized crime, including police work to dismantle trafficking networks, is necessary in order to reduce trafficking in women and the violence associated with it. Trafficking often involves persons of several nationalities working in different European countries who are able to shift their activities from one country to the next at short notice.

Measures taken in one country to combat trafficking may simply have a "displacement effect" pushing traffickers to a nearby country where they can operate more freely. Governments therefore need to co-ordinate their policies against trafficking, and exchange information on a regular basis.

### **3. Organized Trafficking of Migrants in the Czech Republic**

The increase in organized trafficking activities is closely related to illegal migration of aliens in the Czech Republic. Methods of trafficking are becoming more and more perfect and inventive. Groups accompanied by facilitators have grown in size; traffickers manage to organize groups exceeding 70 – 80 persons. Migrants are transported in poor conditions, with tens of persons jam-packed in the loading space of a truck or a pickup for several days. Transporting refugees in carts appended to passenger cars or off-road vehicles occurred as well. The migrants pay amounts ranging from hundreds to thousands

of DM for facilitators' services. Taking persons over border has become a global and highly lucrative business.

As to the absolute number of trafficked individuals, the nationals of Yugoslavia, Afghanistan and Romania prevail among the detained aliens. However, by expressing the percentage of trafficked persons per nationality the ranks are changed: the nationals of China, followed by Afghanis, Iraqi, Yugoslavs, Vietnamese and Romanians hold primacy. The nationals of African and Asian countries, such as the Philippines, Lebanon, or Tunisia used the assistance of a facilitator in high percentage of illegal crossings, though the absolute numbers of detained illegal migrants were lower.<sup>54</sup>

Among detained facilitators nearly 80 percent were Czech citizens. The adequacy of criminal prosecution of trafficking in the Czech Republic in comparison with the EU member states is another problem area to be discussed.

## **E. LEGAL ENVIRONMENT FOR LARGE-SCALE MIGRATION IN CENTRAL EUROPE**

### **1. Legislature Relating to Issue of Migration**

Most of the asylum-seekers and refugees in Central Europe have fled countries in the Middle East (Iraq, Iran), Europe (Yugoslavia, Bosnia, former USSR), western and southern Asia (Afghanistan, Sri Lanka, Pakistan and Bangladesh) to seek a better life. Based on current international, as well as national legal environment in Central European

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<sup>54</sup> \_\_\_\_\_, *Information on the Migration Situation in the territory of the Czech Republic in 1998*, Ministry of Interior of the Czech Republic, p. 8.

countries, many of migrants use the institution of asylum in order to enjoy favorable treatment by official authorities of their respective host countries.

The governments of the Central European countries have passed domestic legislation establishing status determination procedures, providing basic reception system for asylum-seekers and introducing measures for the integration of recognized refugees. As the countries begin negotiations for entry into the European Union (EU), improvements are still needed in legislation, in the institutions involved and in the standards applied in practice.

Because the wider range of opportunities for asylum-seekers within the EU still influences decisions, these countries remain primarily countries of transit rather than destination. But the balance is changing, particularly in the countries moving closer to EU membership.

Asylum management systems in Central European countries meet international standards in providing protection, assistance and durable solutions to asylum-seekers and refugees. The asylum system has been determined by wide range of stakeholders to design the optimal legal and institutional structure of the asylum system. This includes central government asylum authorities, ministries, parliamentarians, local authorities and municipalities, law-enforcement authorities, non-governmental organizations, lawyers, the judiciary, educational and research establishments, the business community, the media and the public at large.

Legal environment in the area of migration in Central European countries is required to align with the legislative of the European Union. Among all considered



countries (the Czech Republic, Hungary, Poland and Slovakia), the trends are very similar, as official interests of concerned governments are similar as well. These countries clearly identify themselves with the democratic (developed) Western civilization and the struggle to protect their national interests from underdevelopment (poverty) of the East. Newly adopted legislative norms are intended to correspond with the EU requirements in order to make considered countries eligible for intended EU membership. As there are only minor differences between individual countries, an example of the newest law adopted by the Parliament of the Czech Republic could be serve as an example of migration regulation in whole region.

The Parliament of the Czech Republic has adopted the Act No. 326 of November 30th, 1999 on Residence of Aliens in the Territory of the Czech Republic that has come into effect in January 2000. This act sets out conditions for entering the territory of the Czech Republic, remaining on the national territory and leaving the territory by an alien (meaning a private individual who is not a Czech national).<sup>55</sup>

Most of constraining regulations of this act do not apply to an alien who applies for protection by the Czech Republic in the form of asylum, and to refugees, unless provided otherwise by a special legal regulation.<sup>56</sup>

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<sup>55</sup> \_\_\_\_\_, *Residence of Aliens in the Territory of the Czech Republic*, Act No. 326 of November 30th, 1999, Parliament of the Czech Republic, *Section 1*.

<sup>56</sup> *Ibid.*, *Section 2*.



## **2. Conditions for Entering Czech National Territory**

An alien is entitled to enter the Czech national territory through a border crossing at the place and time as specified for border control. Border control means the control of an alien as carried out at the border crossing in connection with crossing of the state border of the Czech Republic.<sup>57</sup>

When entering the territory, an alien is obliged to submit a travel passport, valid Czech visa, documents confirming that funds are available for the stay in the territory and for the travel to a country of final destination. Also a certificate of medical insurance and a visa for the country of the alien's destination are required.<sup>58</sup>

These regulations apply only to tourists or business travelers. The situation in case of an individual who declares himself a refugee and who applies for temporary protection of the Czech Republic is completely different. He is entitled to be issued a visa for up to 90 days, which enables him to remain in the territory, and a state border crossing report if the alien is unable to submit a travel document and determine the place where the alien is to stay on the territory. The border authorities also provide transportation to the temporary destination on the Czech territory. The alien is advised about his right to apply for a visa for the purpose of temporary protection. If the alien declares that accommodation has been arranged for him on the territory, or that he has funds to pay his

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<sup>57</sup> *Ibid.*, Section 3.

<sup>58</sup> *Ibid.*, Section 5.

own accommodation, the police have to abstain from determining the place of temporary residence.<sup>59</sup>

An alien who cannot submit a travel document during border control shall be obliged to prove his identity with another, officially issued document of his home country, or by a statutory declaration stating his surname, name, date and place of birth and country from which he has arrived.<sup>60</sup>

Entry to the territory may be refused to an alien if the alien fails to meet the obligation to submit required documents, his visa has been cancelled by the issuing body or has expired, he is an undesirable person, or his travel document has expired. All this again does not apply in the case when an individual declares himself a refugee.<sup>61</sup>

The only case when border authorities may refuse entry in the territory to an alien who applies for temporary protection is if the alien, prior to his entry in the territory, committed a crime against peace, a war crime or a crime against humanity within the meaning of international instruments which contain provisions on such crimes, or a non-political crime which, through its merits, amounts to a criminal offence whereas the maximum penalty of imprisonment exceeds 10 years or the alien is on the list of undesirable individuals.<sup>62</sup> It is logical that as long as a worldwide reliable database listing

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<sup>59</sup> *Ibid.*

<sup>60</sup> *Ibid.*, Section 7.

<sup>61</sup> *Ibid.*, Section 9.

<sup>62</sup> *Ibid.*, Section 8.

all criminals and offenders does not exist, this provision giving a theoretical chance of entry refusal may not be implemented effectively.<sup>63</sup>

In case of temporary stay in the territory with of a long-term visa, the police at the request of an alien shall issue a visa for over 90 days. The following documents are required: a travel document, a document confirming the purpose of his stay, a document with the provision of accommodation, a medical insurance, an extract from the Czech Criminal Register and a similar document of the country of the alien's nationality.

In case of an application for an extension of a visa for over 90 days for the purpose of business activity, an alien shall also be obliged to attach a certificate of the Czech financial office on the payment of income tax for the last tax period.<sup>64</sup>

There are exceptions to these regulations for individuals declaring themselves refugees. The main reason for these exceptions is an impossibility of obtaining certain documents from authoritarian regimes or in armed conflicts areas.<sup>65</sup>

The only reasons when the police may cancel a visa are if the alien was convicted of an intended criminal act or does not fulfil the purpose for which the visa was issued.<sup>66</sup>

Another possibility for an alien how to remain on the Czech national territory is by obtaining a visa allowing to remain at the request of an alien if the alien is prevented from leaving the territory by an obstacle beyond his control. Especially this provision is a fertile

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<sup>63</sup> *Ibid.*, Section 9.

<sup>64</sup> *Ibid.*, Section 33.

<sup>65</sup> *Ibid.*, Section 31.

<sup>66</sup> *Ibid.*, Section 34.

ground for lawyers who in exchange for adequate reward provide good reasons to their clients in obtaining the required visa.<sup>67</sup>

A visa for the purpose of temporary protection may be issued by the authorities at the request of an alien who flees from the country of his nationality or from a country that granted him asylum status. It is also possible in case when there is an armed conflict or permanent violence in the country of his former residence.<sup>68</sup> Even in this case if he is not able to submit any of the above documents for reasons beyond his control, such a proof may be substituted for with a statutory declaration.

If an alien who has been granted temporary protection cannot arrange accommodation by his own means, the police has to arrange accommodation for him. If an alien for whom accommodation has been arranged cannot cover the cost related to his entry and stay in the territory, the Czech government covers these costs. An alien who has been granted temporary protection and whose registered address is outside an accommodation center is eligible to be provided with a financial contribution of up to the amount of the subsistence minimum. This financial contribution includes a contribution to cover sustenance and other basic personal needs, a contribution to special diet food and a contribution to cover necessary household expenses.<sup>69</sup>

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<sup>67</sup> *Ibid.*, Section 35.

<sup>68</sup> *Ibid.*, Section 41.

<sup>69</sup> *Ibid.*, Section 45.

For the purposes of employment and studies, an alien shall be considered an alien with a permanent residence permit during the validity period of a visa for the purpose of temporary protection.

The staff of the Office of the United Nations High Commissioner for Refugees is entitled to deal in person with an alien who has been granted a visa for the purpose of temporary protection. The same does not apply if the personal liberty of the alien is deprived for reason set out by law.<sup>70</sup> This visa expires if a sentence of expulsion has been passed or if a valid decision on administrative expulsion has been taken; the same shall not apply if the alien filed a complaint against the decision on administrative expulsion with the court.<sup>71</sup>

Permanent stay on the territory is for an alien possible only with a residence permit. Without the condition of previous continuous stay in the territory, a residence permit may be granted for the purpose of family reunion with a Czech national, for the humanitarian reasons or when the stay in the territory is in the political interest of the Czech Republic.<sup>72</sup> Following 8 years of continuous legal stay in the territory, a residence permit may be applied for. Then a certificate of permission to reside issued by the police may be valid for 10 years. An alien who permanently resides on the Czech territory is

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<sup>70</sup> *Ibid.*, Section 47.

<sup>71</sup> *Ibid.*, Section 62.

<sup>72</sup> *Ibid.*, Section 65.



entitled to enter the territory, remain in the territory and leave the territory without a visa.<sup>73</sup>

A residence permit may not be granted if the alien fails to submit the required documents or when he has been sentenced to expulsion. Also, a residence permit shall cease to be valid if the alien becomes nationalized as a Czech citizen.<sup>74</sup>

The Czech authorities shall cancel a residence permit if it establishes that the alien entered into marriage solely with the aim of obtaining a residence permit. This does not apply, however, if a child was born out of the marriage or was irrevocably adopted. Another possibility for losing residence permit is when marriage is terminated on the basis of a court decision.<sup>75</sup>

In order to prevent transportation service providers from bringing individuals that are not eligible to enter the territory, duties of carriers are defined. An air carrier or an operator of other transportation services may be obliged to transport an alien back to a foreign country if he does not have proper documents.<sup>76</sup>

Czech legal system attempts to mitigate certain harsh conditions following administrative expulsion. Throughout the validity of a decision on administrative expulsion, the authorities may grant a visa to enter the territory if the purpose of the stay

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<sup>73</sup> *Ibid.*, Section 66.

<sup>74</sup> *Ibid.*, Section 79.

<sup>75</sup> *Ibid.*, Section 80.

<sup>76</sup> *Ibid.*, Section 104.



in the territory is connected with the birth or funeral service of a person related to an alien concerned. Similar reason may also be a visit of a seriously ill person related to an alien.

### **3. Conditions for Remaining and Detention in National Territory**

An individual's freedom of entering and remaining in the Czech territory may be restricted only on the grounds of the state's security, the public order and public health.<sup>77</sup> This restriction may not be enforced if legal obstacles to travel exist. That means that in reality nobody can be expelled to a country, where his life or freedom is in danger for reasons of race, religion, nationality or political opinion. Also dangers of torture, inhuman or degrading treatment, war or the threat of death are legal grounds preventing possible extradition or expulsion. These provisions do not apply if the alien can travel to another country, or if he is a danger to the security of the state or has been convicted for an especially serious crime.<sup>78</sup>

Detention of an alien is possible only for clearly defined reasons. The police are entitled to detain an alien who was delivered a notice of proceedings concerning administrative expulsion, if there is a risk that the alien could endanger state's security, seriously interfere with public order or exacerbate the execution of an expulsion. An alien may be detained after a written decision on his detention was delivered to him or after he refused to receive a delivery of such decision.<sup>79</sup>

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<sup>77</sup> *Ibid.*, Section 154.

<sup>78</sup> *Ibid.*, Section 179.

<sup>79</sup> *Ibid.*, Section 124.

The period of detention may not exceed 180 days. The police must, without undue delay, report the detention of an alien to a family member. Unless an international agreement determines otherwise, the police are obliged to report detention of an alien for the purposes of administrative expulsion to the relevant diplomatic authority if asked to do so by the alien.<sup>80</sup>

The police may detain any alien who entered the national territory illegally for the purposes of his repatriation under an international agreement for as long as necessary. Even then, the police are obliged to repatriate an alien as soon as possible after the alien has been detained.

The police operate a special detention facility where detained aliens are placed. An alien should be delivered in the facility within 48 hours of deprivation of personal liberty, if the grounds for detention persist. This detention facility is divided into a moderate and severe departments and complies with hygienic standards.<sup>81</sup>

#### **4. Repatriation as Legal Issue**

The history of global refugee problems in the period after the Second World War can be divided into two distinct phases. In the first phase, which lasted roughly from 1945 until 1985, the resettlement was promoted, even when voluntary repatriation was the preferred solution.

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<sup>80</sup> *Ibid.*, Section 125.

<sup>81</sup> *Ibid.*, Section 130.

During the second phase, beginning in 1985, voluntary repatriation came to be promoted. In 1993, the notion of safe return was introduced. In 1996, even the doctrine of imposed return was aired by UNHCR. However, neither the notion of safe return nor the doctrine of imposed return has necessarily been advanced to replace the standard of voluntary repatriation.

Since there was at present no actual shortage of labor force, it was time to rethink the solution of resettlement in other than the limited Cold War context. Unconstrained by the politics of the Cold War, UNHCR declared the decade of 1990s to be the decade of repatriation. The promoters of voluntary repatriation simply assumed that all refugees desired to go home. There were a number of situations in which refugees did not want to go home, however.

The crisis in former Yugoslavia led to "a resurgence of interest among Northern governments in the paradigm of temporary protection, including the right to repatriate when refugee status comes to an end".<sup>82</sup> The 1951 Convention did not require the application of the standard of voluntary repatriation. It is for the host state alone to decide when protection in the country of origin is viable.

The doctrine of imposed return was officially introduced first by Dennis McNamara, the Director of UNHCR's Division of International Protection (DIP), in

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<sup>82</sup> Hathaway, J. C., *"The Meaning of Repatriation"*, *International Journal of Refugee Law*. Vol. 9, No. 4, 1997, pp.. 551-558.

September 1996. Under a doctrine of imposed return, refugees may be sent back to less than optimal conditions in their home country against their will.<sup>83</sup>

The Security Council or appropriate regional body could authorize a non-voluntary repatriation if a reasonable expectation of the provision of basic human needs, including shelter, nutrition, and basic human rights, including freedom from gross violations of the integrity of the person, the national standard of human rights could be enjoyed by the returnee population on a nondiscriminatory basis.<sup>84</sup> This guideline creates the circumstances in which refugees may be compelled to return to the country of origin.

The pressure from the host countries is increasing because they are often confronted with a situation in which other countries are unwilling to accept the principle of burden sharing. The absence of burden sharing is manifested both at the level of asylum and at the level of resources. Notions of burden sharing which would have certain states pay for the care of refugees in exchange for being refugee free states.

The governments of countries of origin are often in no position to assume responsibility for the reintegration of returning refugees and other displaced populations. The traditional approach to repatriation is focused on the immediate consumption needs of returnees and did little to initiate and sustain a development process necessary to prevent further crises and population displacements in the country of origin.<sup>85</sup>

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<sup>83</sup> *Ibid.*, p. 558.

<sup>84</sup> \_\_\_\_\_, *Sustainable Refugee Return: A Report of a Workshop at Princeton University*, 13-14 February 1998, pp.. 23-24.

<sup>85</sup> Gorman, R. F., Kibreab, G., *Repatriation Aid and Development assistance* in James C. Hathaway *Reconceiving International Refugee Law*. pp.. 42-43.

It cannot be assumed that the needs of returning refugees are greater than those of other citizens affected by war and the loss of development opportunities. The scope of returnee aid is delineated with the objective of establishing minimum material conditions in which the return of refugees can be promoted. The strategy is perhaps best epitomized by Quick Impact Projects (QIPs) executed by UNHCR to help the reintegration process. QIPs are essentially "emergency development" projects that do not take into account the long-term problems of recurrent costs and sustainability.<sup>86</sup> With its limited resources it can at best pursue limited developmental objectives. The creation of minimum economic conditions of return is also accompanied by an endeavor to create the minimum political conditions of return.

In the post-Cold War era, some influential interest groups in developed countries see no reason to share the burden of the troubled regions. Involuntary repatriation may thus be described as the favored solution to the issue.

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<sup>86</sup> Chimni, B. S., *New Issues in Refugee Research*, UNHCR Working Paper No.2, May 1999.

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## IV. HUMANITARIAN AID

### A. PROVISION OF HUMANITARIAN AID

#### 1. Environment for Humanitarian Aid

Humanitarian activities take place in a political environment and thus are affected by and affect that environment. The challenge when providing humanitarian aid is to respect humanitarian principles while ensuring a coherent approach among the political, security, and humanitarian sectors.<sup>87</sup>

Civilians in different crises areas are increasingly subject to abuses and violations of international humanitarian law. People in need are denied access to humanitarian assistance for reasons of political and military expediency. Massive population displacements result from these violations. In war zones, where there are no front lines, whole communities and population groups become "the enemy" and the aim of warfare is to destroy and displace them.

The abuse of humanitarian assistance and resources and the targeting of humanitarian aid workers through harassment, hostage taking and murder are increasing. Attacks on aid workers have various objectives: disrupting negotiations, preventing humanitarian workers from helping the enemies, and removing potential witnesses to atrocities.

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<sup>87</sup> \_\_\_\_\_, *Special Economic, Humanitarian and Disaster Relief Assistance*, UN Economic and Social Council, Geneva, 10 July 1997, p. 2.

The escalation of ruthless internal conflicts in the 1990s' and the phenomena of imploding of state structures have changed the context in which humanitarian actions were undertaken before experience from Yugoslavia and Somalia.

The assessment of effectiveness of the United Nations humanitarian system, in collaboration with non-governmental, bilateral and international organizations is needed. Options should be considered for overcoming limitations and enhancing capacity to respond to the crises.

## **2. Framework for Coordination of Humanitarian Aid**

Effective provision of aid and targeted prioritization are dependant on a comprehensive analysis and understanding of the impact of conflict on different segments of society, on gender relations, and on the distribution of power within communities.

The most important challenge facing the humanitarian community remains the provision of coherent, effective, and timely assistance to those in need. In order to perform this function, improved coordination between national bodies, the United Nations and the international community is necessary.<sup>88</sup>

The United Nations High Commissioner for Refugees (UNHCR), the World Food Program (WFP), the United Nations Children's Fund (UNICEF), the United Nations Development Program (UNDP), the World Health Organization (WHO), and the Food and Agriculture Organization of the United Nations (FAO) have to examine and

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<sup>88</sup> *Ibid.*, p. 5.

strengthen their organizational capacity to ensure a coherent system-wide approach to humanitarian assistance.

It is the responsibility of each national authority to meet the humanitarian needs of its citizens, but the scope and nature of a crisis often require the support of the international community. In the humanitarian field, organizations have targeted specific mandates that could lead to intersection and overlap if not addressed through coordination. In the context of crises, UNHCR and UNICEF have mandates to protect and assist refugees and children; WFP, FAO and WHO have specialized mandates in food aid, food and agriculture and health care. UNDP has a role in fostering sustainable development practices. Coordinating responsibilities for humanitarian assistance rest with DHA.

There are three phases of an emergency: pre-crisis and prevention, crisis, and recovery. Even if mandates are clear, overlap may occur. There are also gaps in mandates within the humanitarian system that include areas of joint planning, assessment and training.

In order to enhance coordination and improve response effectiveness, particularly in avoiding duplication and minimizing gaps, humanitarian organizations have to clarify division of responsibilities and relationship between United Nations humanitarian structures and those outside the system.

The coordination is so important even when deciding to discontinue an operation. If survival conditions have not been attained or security guarantees for the population are not in place, early exit may trigger further conflict and place populations at risk and create

new humanitarian crises. However, a delayed exit might delay long-term, sustainable solutions if the beneficiaries have become dependent on humanitarian assistance and have expectations that the government is unable to satisfy.

If a peace agreement is signed, the existing humanitarian coordination structure should be reviewed immediately in the light of changing objectives, scope and impact, focusing on the need to bridge humanitarian assistance with rehabilitation and reconstruction programs.

### **3. Complexity of System of Humanitarian Aid**

Early warning, contingency planning, preparedness, information and rapid response system represent some of important areas influencing success of humanitarian aid.<sup>89</sup> An early warning capacity within the humanitarian sphere is a tool to improve decision-making in anticipation of crises. If linked to timely and decisive response mechanisms, early warning can assist in preparing for and even preventing crises. For example, monitoring of food supply and demand and refugee movements and numbers helps warn of potential crises.

Much of the effectiveness of the initial response to an emergency depends on the contingency planning and preparedness activities carried out in response to early warning signals. Contingency planning includes identification of possible emergency scenarios, their impacts and resulting humanitarian needs.

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<sup>89</sup> *Ibid.*, p. 10.

Some agencies have decentralized their operations through increased delegation of authority to the field. The merits of decentralization include quicker response to field needs, greater sensitivity and understanding of local conditions and enhanced ability of the in-country team to take timely and effective decisions.

The success of collective response to humanitarian crises depends not only on a well-coordinated and integrated plan of action, but also on the availability of the human, material and financial resources.

The main task of monitoring is to measure the progress of activities and output against established schedules and factors from which changes in the program can be decided. Because of the greater complexity of today's humanitarian programs, monitoring should pay particular attention to the effectiveness of management and coordination.

## **B. FUNDING OF HUMANITARIAN AID**

### **1. Resources for Funding of Humanitarian Aid**

Funding of Humanitarian Aid relies almost exclusively on voluntary contributions. This reliance on voluntary funds coupled with unforeseen refugee crises, often results in funding shortages that directly affect ability to respond to the needs of refugees and other population of concern.

The requirements are based on assessments of the needs undertaken in field-based planning sessions that involve UN agencies, host governments, NGOs and other involved



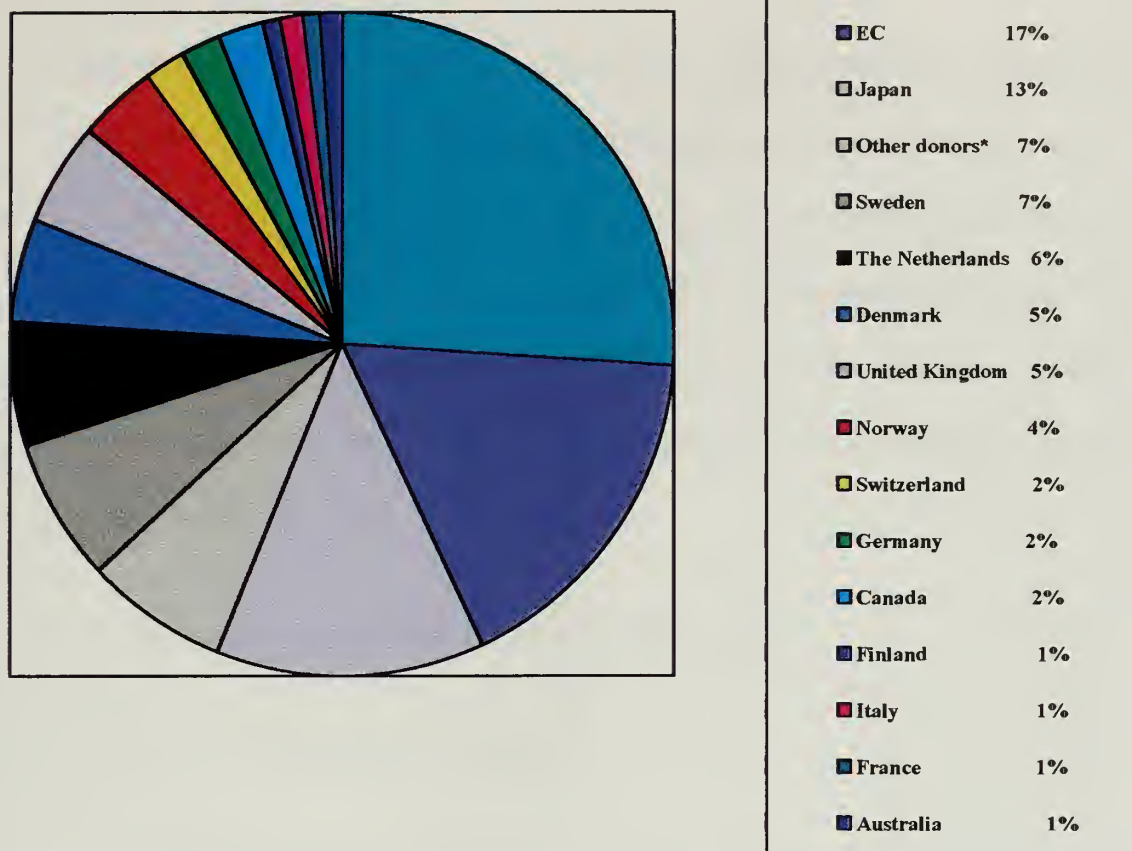
actors. The nature of work requires high level of flexibility in utilizing financial and other resources.

The UNHCR is a typical example of an important institution providing humanitarian aid worldwide. Although it also receives contributions from intergovernmental organizations, NGOs and individuals, most of its funding is provided by a tiny group of 15 donors – 14 governments and the European Commission. In 1998 this group of donors provided almost 95% of UNHCR's total funds. As far as private donors are concerned, they are recruited within general public, corporations, foundations and NGOs. These funds are raised primarily in Europe, the USA and Japan. While NGOs implement UNHCR'S programs in the field, they also generate support for refugees by appealing to the public in number of operations.<sup>90</sup>

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<sup>90</sup> \_\_\_\_\_, *Funding and Budget*, UNHCR 2000.





\*Include Governments, Private donors, Inter-Governmental Organizations, NGOs and the UN system.

Figure 5. Main Contributors to the UNHCR budget 1994-1998<sup>91</sup>

## 2. Predictability and Flexibility of Funding

Besides quantity of funding, also quality is very important. Within quality criteria, predictability, flexibility and promptness are most important. Often, UNHCR has to begin operations without knowing when it can expect to receive funding for a particular program, or whether contributions will come with restrictions attached. Early and predictable financial support helps to plan effectively and efficiently. As tight earmarking (setting conditions for determining use of donor's contribution) limits humanitarian agency

<sup>91</sup> *Ibid.*



independence, it also weakens its coordinating role. While every donor would like to see his contribution visibly solve the most urgent refugee needs, agencies also require funds for their headquarters and activities of support structure like training or evaluation activities. Generally, agencies encourage contributions without earmarking, or if this is not acceptable for a donor, regional earmarking is an option. This enables to redirect funds when new and more urgent needs arise, to provide the quick response expected by governments and the public.

## **C. EFFECTIVENESS OF HUMANITARIAN AID**

### **1. Evaluation of Strategies**

Humanitarian aid is earmarked for crises arising as a result of either natural disasters or situations of armed conflict. The general characteristic of the crises is the migration of large numbers of people to areas where resources are, in many cases, already scarce. The problems require mobilization of very costly resources, especially in the case of armed conflict.

United Nations agencies, and international organizations such as the International Committee of the Red Cross (ICRC), normally play a key role in organizing the aid effort. Unlike the European Union, which has its own financial resources, these agencies and organizations are heavily dependent on contributions from public and, to a lesser extent, private sponsors. The United Nations General Assembly has set up a Department of Humanitarian Affairs (DHA) Within the United Nations this Department is responsible for



liaising between humanitarian agencies and also coordinating political, military and humanitarian operations. As a appropriate body of the European Union the European Community Humanitarian Office (ECHO) was set up to operate particularly in the area of emergency humanitarian aid to the people of countries effected by crises. The main tasks of this organization are to ensure managerial consistency, the expertise needed to handle emergencies, adopt the appropriate procedures, to identify requirements, mobilize personnel and material for the relief operation, monitor and evaluate.<sup>92</sup>

The strategies of above mentioned organizations lay down principles that are decisive for the humanitarian aid policy pursued by the each particular contributor. Although not all contributors devote the same finance to humanitarian aid, certain of them are, however, able to deploy significant resources. Usually, their decision-making procedures are a function of the origin of the financial resources, and not the nature of the proposed operations or the scale of the crises. This is the reason why, when major crises have erupted, the mobilization of appropriations has proved more difficult, especially when their allocations reserved for emergency aid had been used up already.

One of the evaluation criteria of the OECD Development Assistance Committee to be applied to humanitarian aid operations is to assess whether they contribute to the establishment of sustainable programs of rehabilitation and development. Humanitarian aid can address the symptoms, but not the causes of a humanitarian crisis.

Certain issues are recognized which focus on the need for coherent strategies integrating the humanitarian, rehabilitation and development programs. There are actions, which,

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<sup>92</sup> \_\_\_\_\_, *Special Report No 2/97*, European Court of Auditors, 1997, *Chapter 1*.

while responding to specific humanitarian needs, were implemented in situations where the need was for longer-term structural measures of rehabilitation. These range from the provision of seeds and fishing equipment in Angola through the provision of medical supplies and equipment to Cuba, or a tuberculosis prevention program in Siberia. Long-term programs should be done on the basis of a clear strategy recognizing from the outset the longer-term commitment that is needed for such a program to be effective.

## **2. Assessment of Needs**

In order to be able to respond speedily and effectively to emergency humanitarian situations a reliable assessment of real needs is one of factors that predict any future success of the operation. Very often, because of the war situation, the UNHCR's estimates of needs for equipment and provisions remain very rough and have included the setting-up of reserve stocks in order to cope with contingencies. Also, the ability to monitor the final distribution of goods on the spot is limited.

There is a need for integrating the evaluation of humanitarian aid with the evaluation of other external policies. The assessment of the total numbers of persons requiring humanitarian assistance, and their whereabouts, particularly in the context of major crises, is generally carried out by the UN agencies. They seek information from all appropriate sources: the local authorities, NGOs and others.

Experience shows that total numbers of refugees, displaced persons and other people needing humanitarian assistance tend initially to be overstated. Several factors influence this: the difficulty of assessing actual numbers when large movements of



population occur, coupled with inadequate resources being allocated to the task of drawing up initial estimates, inflationary pressure on numbers from the media and from within the humanitarian agencies themselves, and in some cases the need for political authorities affected by the crisis to exaggerate the situation.

The most effective way of determining numbers is to register all the refugees or displaced people. Registration can be combined with information gathering. Accurate estimates of numbers requiring assistance are essential for effective provision and management of humanitarian assistance. Also, the donors insist on registration by the responsible agency as soon as possible after a crisis arises.

Where an action is an immediate response to an urgent crisis, there may be insufficient time to carry out sophisticated targeting initially. Then there could happen that inadequate targeting include providing assistance too widely rather than concentrating the aid on those in real need.

Poor monitoring and control over distributions, notably of food and medical supplies, means that it is not possible to know with any certainty whether the aid has reached the beneficiaries.

When food and hygienic supplies are distributed to refugees and displaced persons in organized centers, and where there are few problems of security, it is possible to carry out detailed control on distributions. For instance in Bosnia, where the security situation made close monitoring dangerous, supplies have been delivered to the municipalities and various organizations responsible for distribution.

It is recognized that those involved in the hostilities also received a share. In order that the UNHCR could keep supplies moving into the Muslim Bosnian enclaves, it also made deliveries to the displaced Bosnian Serbs. Also, in the Rwandan refugee camps in Tanzania and Zaire, as the Hutu army and Militia were mixed in with the refugees, it proved impossible to prevent them too from receiving humanitarian assistance.

In the system of humanitarian assistance, there are many areas that need to be developed and internationally standardized. Within those where the scope for considerable unification and improved coherence between the United Nations (UNHCR), European Union (ECHO), NGOs' and national donor countries' standards are needed are: payment conditions, procurement rules, transport and delivery conditions, and inspection.

Neither the WFP nor the UNHCR have their own resources to fund monitoring activities. Tracking large volumes of aid supplies through a distribution chain with many links and subdivisions is very complex and the humanitarian agencies do not have satisfactory systems for performing this function. Probably this is the reason why the cooperation between some agencies and organizations is still far from ideal. For instance, there is an example of European Union aid implemented by the World Food Program (WFP). The WFP has, traditionally, been responsible for the food element of the United Nations' development aid; it has carried out an increasing proportion of the humanitarian operations in recent years. The European Union and its Member States are the WFP's leading source of funds. With the increase in its humanitarian operations, the WFP is experiencing difficulty in covering its operating costs. These difficulties are associated with the management systems and operational procedures, which are not designed to keep

accounts at the level of individual contributions from the program's sponsors. This concern, however, is also increased by the fact that the visibility of the European Union gifts distributed by the WFP is relatively poor.<sup>93</sup>

### **3. Evaluation of Performance**

Observations and the evaluations show that, in most cases, the aid reaches those to whom it is intended, even if in many cases it arrives later than initially planned.

It is important to assess whether the aid provided was what the beneficiaries needed, in terms of the types of products supplied and, indeed, to evaluate whether the appropriate response to the problem was to provide humanitarian aid. Specifically, one of the questions that need to be answered is whether the humanitarian assistance has contributed to a sustainable process of rehabilitation and recovery.

Where food products are being supplied, the rations are appropriate, in terms of their nutritional component. However, assistance to Rwanda identified an important problem with the supply to refugees, when commodity was unfamiliar, and thus of low acceptability to the refugees. The evaluation concluded that the provision of a commodity, which did not correspond to the dietary habits of the recipients, reflected a substantial inefficiency on the part of the WFP and its donors.<sup>94</sup>

The provision of the means for beneficiaries to produce food for themselves - seeds, agricultural tools, and fishing tackle - is also a highly specific response, encouraging

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<sup>93</sup> *Ibid.*, Chapter 2.

<sup>94</sup> *Ibid.*, Chapter 4.

self-sufficiency. The few problems identified concern such matters as poor quality or incorrect specification of the procured tools or late delivery of seeds.

In the medical field, weaknesses in the precise identification of needs or the lack of coordination have led to the supply of inappropriate goods. In the majority of cases, however, the goods or services provided in the medical field were appropriate.

A separate category of the humanitarian aid effectiveness is the cost of personnel. Frequently, personnel expenses constitute a major part of the costs of a project. Unlike the purchase of goods and materials, where details of actual costs are required, a system of flat rates is used, with different rates for expatriate and local personnel. For some, the flat rates are insufficient to cover the costs (e.g. the UN agencies, international organizations and some NGOs which pay near-professional rates), while for others, whose staff work for volunteer rates, the flat rate sometimes exceeds actual costs substantially.

The rates for local personnel are also standardized across the world, and are based on the levels of pay in the poorest countries. They are often inappropriate for middle-income countries such as former Yugoslavia. There, rates were too low to enable to appoint good local staff, especially in highly qualified professional categories. In these circumstances, there is an incentive to appoint expatriate personnel rather than local staff.

#### **4. Evaluation of Impact**

Assessing the impact of humanitarian aid operations is extremely difficult. The dynamic nature of emergencies, and the number of variable factors complicate



considerably any assessment of impact. As baseline data on initial conditions are rarely available, there is no basis for comparison, other than general impressions. The reports provided at the end of the contract are usually too vague to allow a precise evaluation.

The evaluations discuss impact in general terms only. If the evaluator considers that the beneficiaries were reasonably well targeted, and the aid arrived, then the impact is assumed to have been good. Thus the evaluations of the programs of aid were considered to have had an important impact on the improvement of health care available to the refugees, but this was based on qualitative rather than quantitative assessments.

In a few rather isolated cases there are some more precise indications of the impact of the intervention. For example, one NGO in Angola was able to close a semi-intensive nutritional center in a camp for the displaced following a survey which showed that the level of malnutrition among children under five had declined to a level which no longer justified keeping the center open.

Measuring the impact of humanitarian aid operations means that particular attention needs to be paid to indicators monitored. Consideration should be given to specifying performance indicators, for example, whether distributions were carried out in time, or how intensively equipment will be used.

Cost effectiveness involves the use of economic criteria for evaluating operations. If an intervention is decided on non-economic criteria - for example, the use of an airlift to transport food supplies to a small, isolated population that is starving. The most that can be done is to examine whether the solution adopted was the least-cost one commensurate with achieving the desired result.

A necessary procedure for ensuring cost-effective procurement is tendering, or at least adequate market testing. Generally, the organizations apply adequate procedures for market testing, and seek to obtain the best offer in terms of price, delivery, reliability of supply, and similar criteria. Also, more attention needs to be paid to cost-effectiveness in the use of expatriate personnel.<sup>95</sup>

Although visibility of humanitarian assistance is not a criterion for judging the effectiveness of the assistance, it is very important. It has to be assessed whether the humanitarian aid operations have been sufficiently visible to the beneficiaries and others in the recipient country, and especially to the taxpayers and policymakers in donor countries.

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<sup>95</sup> *Ibid.*, Chapter 5.



## **V. INTERNATIONAL DEVELOPMENT AID**

### **A. GOALS OF INTERNATIONAL DEVELOPMENT AID**

Significant amount of money has been transferred in aid from rich countries to poor ones. The process was designed to relieve poverty, stimulate growth in the recipient countries, and also to promote interests of donor countries.

US. Agency for International Development (AID) was given 33 goals to use aid money to secure third-world adherence to American foreign policy. Among the most important goals are building democracy, protecting the environment, fostering sustainable economic development and encouraging population control.

The World Bank, set up in 1946, has become the most powerful of the multilateral development organizations. Even there is a criticism accusing the bank of caring more about pushing loans than about monitoring how well the money was spent. In response to this, the Bank is trying to move into new areas, such as cleaning up the environment and setting up social welfare systems.<sup>96</sup>

Financial assistance may be given for strategic, political, economic, or even cultural reasons. Determining what role foreign aid has played in promoting growth and development is difficult for many reasons. The effectiveness is influenced by many factors because many social and economic trends may occur together with the flow of international aid. Literature on development suggests that foreign aid will play only a limited role in promoting economic development and improving human welfare.

Foreign aid may promote development, depending on the environment in which that aid is used and the conditions under which it is given. Aid given to countries that are well governed and have adopted working economic policies may provide a boost to their development. On the opposite, aid given to countries that have been governed poorly is less likely to make a positive contribution.<sup>97</sup>

## **B. PURPOSES OF OFFICIAL DEVELOPMENT AID**

The average taxpayer might imagine that aid's main purpose was to relieve poverty. Yet only relatively small amounts of aid go to the poorest of countries or to projects that benefit mainly the poorest of people. Within poor countries, too, aid is rarely concentrated on the services that benefit the poorest. Even the aid that is spent on health and education tends to go to services that benefit disproportionately the better off. Aid for health care goes to hospitals, aid for education to universities.<sup>98</sup>

Spending patterns often reflect the priorities of the recipient governments, while donors have limited possibility to influence the fact that countries have spent a lot less money on development than on advancing political and military goals. Environmentalists stress that some types of environmental damage, such as global warming and the thinning of the ozone layer, may be worsened by poor-country growth, and they argue that

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<sup>96</sup> \_\_\_\_\_, *Foreign Aid*, Economist May 7<sup>th</sup> 1994, p. 19.

<sup>97</sup> \_\_\_\_\_, *The Role of Foreign Aid in Development*, Section 2, The Congress of the United States Congressional Budget Office, May 1997, p. 1.

<sup>98</sup> \_\_\_\_\_, *Foreign Aid*, Economist, May 7<sup>th</sup> 1994, p. 20.

carefully directed aid projects should promote own donors' interests to minimize these threats.

Some countries also prefer projects that are not directly focused on poverty relief, but rather promote their own commercial interests. Their development assistance goes mainly to the countries that are likely to become their future customers. This aid is often distorting development priorities when tied to a large item of capital spending, such as a dam, road or a hospital. This tying is especially common in transport, power generation and telecommunication projects. Governments providing aid are often clever at finding ways to use aid to promote their own exports in form of a technical assistance. Then the aid is provided in the sure knowledge that the money will be spent mainly in the donor country, even when it is not explicitly tied.

In response to the claims that too little help goes to the poor, some governments are trying to steer more money through voluntary bodies, such as charities and religious organizations. Such bodies, known as non-governmental organizations, may be better than central governments at handling small projects and more responsive to real needs of targeted social groups. These programs, however, may be questioned regarding their efficiency and also their post-intervention sustainability.

### **C. EFFECTS OF OFFICIAL DEVELOPMENT AID**

When the notion of International Development Aid was redefined after the WW II, the intention was to promote economic growth rather than to relieve poverty as such. It solved current shortages of capital and foreign exchange and boosted investments to a

level at which growth could become self-sustaining. Unexpected, in many countries that have received the most aid and capital investment, growth has been negligible. In sub-Saharan Africa for instance, foreign investments were almost as large as that of much faster growing Southeast Asian countries. On the other hand, some third world countries, such as China or Vietnam, have enjoyed fast economic growth with relatively little aid.

Where aid did not work the reason could be that donors failed to learn from similar previous programs; recipients did not succeed to identify their own needs. Any generalization becomes extremely difficult when donors attach various conditions to the aid provided; the importance of aid in national economies differs and the complexity of economic growth works differently in different national environments. Some donors have lately found that much of the aid they give to some governments goes towards paying back money unwisely lent by international financial institutions.<sup>99</sup>

Multilateral institutions such as the World Bank Group and the regional multilateral development banks have generally favored the poorest countries in the developing world. By contrast, individual nations gave less than a quarter of their assistance to that same group of countries.<sup>100</sup>

Many different factors contribute to development. Unique historical, geographical, or cultural influences may play an important role in determining whether or how fast a

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<sup>99</sup> *Ibid.*, p. 22.

<sup>100</sup> \_\_\_\_\_, *The Role of Foreign Aid in Development*, Section 2, The Congress of the United States Congressional Budget Office, May 1997, p. 2.

country develops. Nevertheless, the political and economic choices in developing countries make play an important role in determining how well and how fast they develop.

Governance seems to be also important in the development process. Countries that have had a high political stability and social order are more likely to develop than countries that have experienced instability and chaos. The less corrupt and self-serving a developing country's government, the more likely it is to achieve long-term development. Successful development usually depends on developing countries' having the means to protect property rights and maintain an efficient economic system.

As a general rule, democracy does not appear to be necessary for development, though it may be important in some countries. Sound economic management and strategy are important components of successful development. Non-inflationary monetary policies and low budget deficits provide a favorable environment for the accumulation of capital, whereas large deficits, high inflation, and the resulting financial instability work against them.

The average amount of foreign aid transferred to developing countries worldwide is small compared with the size of their economies. In individual cases, however, that figure can be much higher in a given year. But more assistance is not always more effective. Receiving too much foreign aid may accede a country's absorptive capacity and undermines the aid's overall effectiveness.

Generally, foreign aid given to developing countries reinforces existing conditions. If a country has good government and economic policies, the result is likely to be more good government and economic policies. If a country has a highly corrupt political system



and has pursued counterproductive economic policies, the result is usually more of the same. That is not to say that foreign aid never benefits a country that is pursuing counterproductive economic policies. Child immunization programs, for example, are likely to benefit a developing country regardless of its economic policies.<sup>101</sup>

the way donors give foreign assistance may also influence its usefulness in promoting economic and social development. Aid may be given to alleviate the effects of natural disasters, protect the donor nation's political and strategic interests, or increase the donor's exports.

#### **D. FACTORS INFLUENCING FLOWS OF OFFICIAL DEVELOPMENT AID**

The main measure for providing aid is the total spending on Official Development Assistance. This can be thought of as the measure of the Gross Product for the aid business, equivalent to measures such as the Gross National Product for a country's accounts. Although most ODA is in the form of non-repayable grants, some part of ODA is in the form of soft loans.

ODA programs reduction reflected the desire to reduce taxes and balance budgets in the donor countries. By 1994 private flows to less developed countries exceeded official aid flows. Private aid flows to different countries are very unbalanced when compared to ODA flows. Most of the private investment is going to the economically stronger countries.

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<sup>101</sup> *Ibid.*, p. 5.



Aid flows for relief are more variable than development assistance flows. Relief budgets increase sharply when major crises erupt. The rise in relief spending in the early 90's was unprecedented, and following the outbreak of a new humanitarian crisis on a huge scale.<sup>102</sup>

## **E. MEASURES OF NEEDS**

The total number of refugees and asylum seekers may be even a better measure of aid needs than monetary measures. The number of refugees and asylum seekers has been falling since it peaked in 1992. There was a brief rise in 1994 (because of the Rwanda crisis) but the number has fallen for three straight years since.<sup>103</sup>

One of the reasons given for the reducing number of refugees is that states are now less willing to admit asylum seekers into their territory and that more people are being refused entry at borders. It is sometimes argued that the internal displacement has taken over from refugee status, but the number of internally displaced persons 'of concern' to the United Nations High Commissioner of Refugees has fallen by 10% between 1995 and 1997.<sup>104</sup> The large repatriations in the 90's are probably responsible for a large part in the reduction of refugee numbers. The number of refugees is probably a barometer of level of humanitarian crises around the world rather than an indication of any global changes in attitudes towards refugees.

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<sup>102</sup> \_\_\_\_\_, *Is the International Aid System in Recession?* InterWorks Europe, Ballyshoneen, Berrings, Co Cork, Ireland, Aug. 1998, p. 5.

<sup>103</sup> *Ibid.*, p. 4.

<sup>104</sup> *Ibid.*

## F. DONOR TRENDS IN THE INTERNATIONAL AID SYSTEM

Although the number of refugees and displaced persons, together with measures such as UNDP's Human Development Index, can give a good picture of human needs, it is the donor finance trends, which indicate what size of resources will be available to meet the needs.

The main donor countries form the membership of the Development Assistance Committee of the Organization for Economic Co-operation and Development (OECD/DAC). The OECD/DAC members provide nearly 90% of all ODA. The Commission of the European Community and others provides the remaining 10%. The eight top countries provided almost half of all ODA in 1997.<sup>105</sup>

As countries have tried to reduce their public sector deficits, overseas aid programs have suffered a disproportionate share of cuts. The UN target for ODA is that countries should give 0.7% of their GNP as Official Development Aid. In 1997 only Denmark, Norway, Sweden and the Netherlands met this target. The countries with the strongest economies (the G7 group of countries) are the least generous, giving only 0.19% of their collective GNP, compared to an average of 0.45% for the other DAC members.<sup>106</sup>

The United States is a special case. For many decades it was the leading ODA donor in the world. US ODA has fallen by 55% since 1990 and it is now fourth in line as an ODA donor behind Japan, France, and Germany. USA ODA is only 0.08% of GNP,

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<sup>105</sup> *Ibid.*, p. 7.

<sup>106</sup> *Ibid.*

the lowest of any of the DAC members. The paradox is that private charitable giving in the US (for all purposes) is more than 20 times their countries official ODA. The low level of ODA may reflect a belief that charity is a private rather than a government concern.<sup>107</sup>

As far as the future for the aid business is concerned, of particular concern is the economic crisis in Japan. Japan is now the biggest donor country in the world, providing 18% of all ODA (much it through multilateral institutions).

Present trends seem to indicate that the ODA will probably continue to fall in the short-term, at least as a portion of GNP. Unless there is a major new humanitarian crisis, relief aid will continue to fall. However, it will probably remain a significant part of ODA budgets. This is likely because for relief spending is much easier to get political support than for development spending.

A special category of aid is direct aid provided in food. Food aid has fallen every year since 1993. This reflects the efforts of both the United States and the European Union to reduce their subsidized agricultural surpluses. It may also reflect a shift away from food as a means of development assistance.

The effect of global trade agreements such as the Uruguay round of the General Agreement on Trade and Tariffs, and continuing negotiations between the main producers will be to limit future agricultural subsidies.

Further changes in relief food aid will depend on the rise of new humanitarian crises. It is probably reasonable to expect that relief food will continue to grow as a proportion of all food aid.<sup>108</sup>

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<sup>107</sup> *Ibid.*, p. 8.

<sup>108</sup> *Ibid.*, p. 5.

There will be increasing pressure on aid agencies to achieve more with less as donors become more demanding in seeking visible proof that aid is working.<sup>109</sup>

## **G. DISTRIBUTION OF OFFICIAL DEVELOPMENT ASSISTANCE**

Official development aid is usually provided under specified conditions. The aid is then based on the right of donors to intervene. Different donor countries and agencies use different criteria to measure results and various instruments to promote their goals. The questioning that the international aid system has faced encourages donor countries to give preference to visible projects with direct benefits for the people.<sup>110</sup>

During the history, aid spending has tended to follow the national strategic priorities and political or economic interests of donors. There is an example of changing priorities of the USA in distribution of development aid: In the 1940's, Europe received the most U.S. assistance. In the 1950's and 1960's U.S. bilateral assistance focused more on Asian countries. In the 1970's, U.S. priorities shifted to the Middle East.<sup>111</sup>

The foreign aid spending of other donors has also tended to follow their specific interests. Japan devotes the majority of its aid spending to countries in Asia. France gives most of its aid to its former colonies, as does Britain. Some of the smaller aid donors,

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<sup>109</sup> *Ibid.*, p. 9.

<sup>110</sup> Latouche, D., *International Aid and the Transition to Democracy*, OECD Publication 2000, p. 1.

<sup>111</sup> *Ibid.*

however, for example the countries of Scandinavia or the Netherlands, devote their resources to the countries they perceive to be most needy.<sup>112</sup>

Over the last thirty years, aid has contributed to actions in favor of civil rights organizations but also to women's rights. Aid to civil society has been directly supporting student organizations, unions, political parties and administrative reform. International aid has played an effective role in the prevention and management of conflicts arising from ethnic and migration problems.

## **H. EFFECTIVENESS OF INTERNATIONAL DEVELOPMENT AID**

### **1. Assessment of Effectiveness**

Assessing effectiveness of various programs in crises areas that are under international control and where results of provided international assistance are objectively monitored may be helpful in terms of future strategic decisions.

The diverse components of the third world share one characteristic. It is the receipt of foreign aid. Some economists stress that the receipt of foreign aid is the only characteristic shared by diverse components of the third world. This has been so since nearly all of Africa, Asia, and Latin America became classified as the underdeveloped world.<sup>113</sup>

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<sup>112</sup> *Ibid.*

<sup>113</sup> Bauer, P., Yamey, B.,: *Foreign Aid: What is at stake?* Lloyds Bank Review, October 1981, p. 56.



Foreign aid is the transfer of taxpayers' money to distant governments and to official international organizations. While aid advocates comment the disappointing results of aid, they don't mean its ineffectiveness, but its insufficient amounts. Consequently, supporters of intergovernmental transfers dismiss their critics as lacking humanity.

In contrast, the biggest recipients of foreign aid do not hesitate to damage Western economies (OPEC countries), persecute people who do not share officially imposed values (China, Vietnam), dispatch troops in other countries (Nigeria, Zimbabwe), or support irregular paramilitary formations causing emergency situations in foreign countries (Saudi Arabia, Albania). Substantial Western aid has gone to governments at war with each other, restricting the inflow of capital, spending on prestige projects and harming interests of their own citizens.<sup>114</sup>

Very important is that aid increases the power of the recipient governments, and reinforces their grip over the rest of society. It thus promotes politicization of life in the Third World. Consequently, people depend more on administrative decisions. All this contributes to conflicts that are very frequent in multiethnic developing countries.

Also, aid bias development policy towards unsuitable external models, pursue imprudent financial policies, and help maintain overvalued exchange rates.<sup>115</sup>

Unlike most citizens of donor countries imply, International Development Aid does not go directly to the intended recipients. Many see this process as a higher level of redistribution through progressive taxation. But, surprisingly for them, aid goes from

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<sup>114</sup> *Ibid.*, p. 58.

<sup>115</sup> *Ibid.*, p. 60.



government to government. Unlike progressive taxation, aid is not adjusted to the personal situation of recipients. Many taxpayers in donor countries are far poorer than many of recipients, as aid largely benefits to the people who are in control.<sup>116</sup> Aid goes to local rulers who are often directly responsible for poor living conditions of their countrymen. To support rulers on the basis of existing poverty in their countries does not discourage impoverishment policies.

The less known consequence of aid is the pauperization and de-skilling of the recipients. As relatively large percentage of the poorest in developing countries is materially unambitious, official donations may turn these people to paupers. As an example may be used the US trusted territory of Micronesia. There, significant number of people abandoned productive activity, such as farming or fishing, surviving no less comfortably on social subsidies provided by the administration. Then the process of aid continues as de-skilling and results in dis-development.<sup>117</sup>

The success of the Marshal Plan in the early postwar years is often used as an argument in favor of wealth transfers between countries. One should be aware, however, that in postwar Europe the task was not development but reconstruction. The European conditions were appropriate to sustained prosperity, as was proved during years before the war. This could explain why the plan was successful and the money was not just wasted.

Foreign aid is sometimes explained as a tool of promoting exports and employment in the donor countries. In this case, if it was possible to cure economies by more

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<sup>116</sup> *Ibid.*, p. 63.

<sup>117</sup> *Ibid.*, p. 62.

government spending, spending on modernization of country's own infrastructure rather than simply giving resources away could do this more effectively.

An argument favored in the past was that without large-scale aid developing countries could defect into the soviet camp. This is not a case any more. Unfortunately, significant percentage of aid is still channeled through official international agencies, which allocate aid without considering political interests of donors. some recipients in this case think of aid as restitution for past colonial wrongs, like the atlantic slave trade. This understanding, even when largely promoted, is mostly mistaken. The major donors never had significant colonies, and some of them used to be colonies themselves. On the other side, african (liberia, ethiopia) and asian (nepal, sikkim, bhutan) countries, which were not colonies ever, belong within most backward countries in the world. Also, the arab slave trade (which began before atlantic slavery, was far more horrible, and finally was stopped by western efforts) is never mentioned in this context.<sup>118</sup>

As an example of inefficiency of International Development Aid, there is the case of aid provided to Western- African countries – Nigeria and Chad, where cannabis production on the shores of Lake Chad financed weapons purchases by the various factions in the local civil war. All this took place under the control of authorities that share profits of all products, legal and illegal, according to zones of influence.

Given the country's land-locked situation and limited water resources, it received major grants from Western non-governmental organizations, international institutions, and French aid associations. These grants have been diverted from their original purpose,

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<sup>118</sup> *Ibid.*, p. 63.

which was to develop rice fields, increase off-season vegetable plots in the river basin, and irrigate land near Lake Chad. Instead, aid has been used in the past five years to boost cannabis crops.<sup>119</sup>

As governing military authorities are fully aware of this traffic, since many of them have been profiting from it for the past ten years, there is no possibility for any positive development unless a completely changed strategy regarding development aid is adopted.

## **2. Causes of Questionable Results of International Development Aid**

There is a generally accepted opinion between donors of international development aid that aid programming and the right technical assistance could loosen most constraints. There are some negative consequences of massive aid, however. External assistance comes to provide a large share of foreign exchange receipts, budget resources, public investment, and economic policy inputs. In reality, nobody gives policy money without attaching conditions to it. These conditions are inconsistent with local ownership.<sup>120</sup> As a consequence economic and psychological dependency deepens, governments lose control over most decisions, initiatives look useless because donors and lenders determine all.

The ineffectiveness of the official development aid is a long-standing concern driven by donor priorities. However, examination of causes of this ineffectiveness is rarely focused on the nature of recipient governments. Official development aid (ODA) represent 10% to 15% of the GNP in many underdeveloped countries and often half of

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<sup>119</sup> \_\_\_\_\_, *The Geopolitical Drug Dispatch* vol. 22, August 1993.

<sup>120</sup> Berg, E., *The dangers of massive aid*, OECD Club du Sahel 1996.

their public investment. If the impact of official development assistance is to be improved, recipient governments must become more involved in the reform of aid.

Insufficient attention has been paid to the effective structure and management of the donor/recipient relationship, which is often characterized by a lack of trust and government passivity. Donors prefer to make key project decisions themselves, even though this undermines ownership and creates resentment. Recipient governments tend to view aid as a free resource and rarely turn down donor proposals. Instead, they often attempt to alter projects during implementation, which in turn undermines donor confidence in the recipient government.

The effectiveness of aid depends on the recipient government's management capacity and the extent to which aid flows are integrated into a coherent and sustainable development strategy. The important factor is how fully aid is integrated into national development planning and budget exercises. Working macro-economic policies are also a primary condition for effective aid. Unfortunately, planning is often undertaken separately from finance and budgeting.

Donors have sometimes reacted to government weaknesses by seeking to circumvent the state entirely, rather than to build up its capacity. Donors do not address their need to demonstrate measurable results and the requirements of recipient ownership and capacity development. Donors should encourage recipients to better manage their aid resources. Although sound micro and macroeconomic policies providing the appropriate incentives for private investment are important evidence shows that effective state bureaucracies that manage aid as part of national development strategy are needed as well.

A strong and effective central state is necessary for sustained private sector-led economic growth. Also, concentration of a limited number of donors in a given sector allows them to build up necessary level of expertise.<sup>121</sup>

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<sup>121</sup> Walle van de, N., *Improving the effectiveness of aid: A few propositions*, OECD Club du Sahel 1996.

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## **VI. RECOMMENDATIONS AND POSSIBLE SOLUTIONS OF ILLEGAL LARGE-SCALE MIGRATION**

### **A. ENVIRONMENT DETERMINING POSSIBLE SOLUTIONS**

In an effort to solve the illegal large-scale migration in central europe, strategic political decisions should be taken. It must be decided, if it is more convenient for small countries to organize their own programs, or rather contribute to large-scale international effort. Then, the problem should be evaluated in terms of aid allocation, international visibility of donor countries and effectiveness of the program suggested.

One of the most serious problems is that migrants from some countries represent just certain social, national or religious groups in the countries of their origin. While distribution of humanitarian aid can be focused on these groups, International Development Aid can be only provided to formal authorities (governments, local or regional representations). It is difficult to direct any development aid to groups that originate the migration.

Because refugees are a part of a global problem, Central European countries have to take part in measures preventing negative impacts of this problem as well. This humanitarian task has to be performed in compliance with international agreements, showing respect for human rights and preventing abuse of the system. Also, the immigration and refugee policy programs should be implemented gradually, within the framework of state finances.

Countries of Central Europe must take advantage of the positive sides of this development, and simultaneously, as much as possible, minimize the negative side effects. Immigration may provide resources that enrich the whole society. Immigrants may stimulate the development of the economy and national culture, and contribute to improvement of international contacts.

Monitoring of immigration at the borders should follow nationally determined rules that would correspond with common rules adopted within the framework of the European Union. This may make Central European countries more acceptable in terms of their future EU membership. On one hand, it has to make the movement of citizens easy and flexible, on the other hand it has to combat the side effects of the movement, such as threats caused by international crime. This means that Central European countries have to be cooperative both with regard to their western neighbors and with regard to the whole of Europe. Under all circumstances, the application of rules requires good administration, efficiency and respect for legal protection as well.

The basic principle for integration of foreigners should be to treat immigrants as equal members of the society and to let them take responsibility for their new life situation. There is a direct interaction between immigration policy and public opinion, in which a positive attitude leads to a successful policy and a successful policy to positive attitudes.

Foreign nationals' entry into and residence in the country are regulated both by the national legislation and by the international agreements. A foreigner's entry into a country falls under the sovereign jurisdiction of the state. An exception is, however, the universally accepted principle, according to which any individual is entitled to receive protection

against persecution and serious violations of human rights outside his or her home country. The principle is expressed in Article 14 of the Declaration of Human Rights according to which everyone has the right to seek and enjoy in other country asylum from persecution.<sup>122</sup>

Refugees' right to receive international protection is provided by UN's Convention Relating to the Status of Refugees of 1951 as amended by the Protocol of 1967 (77/1968 and 78/1968). The most important point of the Convention is the injunction against forcible repatriation (Art. 33). The injunction prevents repatriation of a person under circumstances where he or she may become subject to persecution for reasons enumerated in the definition of a refugee in the refugee convention.

Even though a voluntary and safe return of refugees and an internal resettlement are regarded as the best alternative solutions to the refugee problem they are not always possible. Under certain circumstances the only possibility to provide protection is resettlement. Then, there is an option to set quotas on numbers of refugees. When choosing quotas, the governments should take into account the international refugee situation.

Immigration and asylum policy aim at openness and internationalization, promotion of basic human rights, principles of good governance and legal protection. It focuses also on combat against illegal immigration and control of side effects of organized international crime. Through necessary legislative and administrative measures, countries

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<sup>122</sup> \_\_\_\_\_, *Government Decision-In-Principle on Immigration and Refugee Policy Programme*, Government of Finland, 16 October 1997, article 2.

have to be prepared in advance for a mass influx caused by a potential crisis in different regions. The most essential is the support for measures aimed at removing the reasons causing large-scale illegal migration.

In order to develop the cooperation with the EU and the Schengen countries, emphasis must be placed on human rights and humanitarian values. The authorities responsible for visa policy should actively promote the application of a more open and uniform visa regimes and the creation of rules to justify negative decisions on visas. The obligations based on international agreements must be taken into account when developing visa regimes. Following this goal, present status of residence permits should be simplified by reducing the number of status categories.

Immigration of individuals with professional skills or special qualifications should be favored. In the first place work permits should be issued to skilled workers for jobs requiring professional ability. The occupation, education and language skills of persons striving to enter the country can be considered as criteria for issuing residence permits.

The definition of a refugee (a qualified asylum seeker) according to the UN Convention related to the Status of Refugees is based on interpretation instructions given by UNHCR. According to this document a residence permit on the basis of need of protection could be granted in specifically listed cases. It applies when the asylum seeker is threatened by armed conflict, environmental catastrophe or other similar serious events which prevent the applicant from returning to his or her home country and eventually subject him or her to torture and other cruel, inhuman or degrading treatment.



For establishing a working cooperation among Central European countries and also between them and countries of Schengen agreement, a list of safe countries of asylum should be drawn up. The list may include states that have ratified the UN Convention on refugees, the UN and Council of Europe Conventions on human rights and the UN and Council of Europe Conventions against torture.

Listed states must provide guarantees that they observe the recognized human rights standards. They should have arrangements for receiving asylum seekers and for integrating refugees. They should also apply a just procedure when processing applications for asylum and be willing to readmit the asylum seekers that other states return. The list should be revised whenever necessary. The application of an asylum seeker coming from a country entered in the list of safe asylum countries should be dealt with under accelerated procedure.

## **B. LEGISLATIVE TOOLS AND ADMINISTRATIVE MEASURES**

### **1. Policy Considerations**

It is increasingly recognized is that the real solution to the problem of illegal migration is bringing stability, prosperity and democracy to developing countries. The opposite solution, namely bringing an indefinite number of inhabitants from suffering countries to prosperous ones, is not likely to work in the long run. Basic argument supporting this assertion is vested in a simple comparison between total numbers of inhabitants in Western developed countries and the rest of the world. Many also argue that large-scale influx of people used to different social and political standards could bring

instability and endanger prosperity and democracy in respective host countries. In developed countries, a picture of various groups of immigrants bringing their disputes and conflicts with them and solving them on the host countries' territory, is not a welcome proposition.

## **2. Trends within European Union**

There are new trends in official immigration policy of west european countries. Even those countries which used to be the most generous in their support of refugees decided to reexamine their approach and protect their own interests first.

An example of the changed attitudes can be found in a traditionally most hospitable European country. In order to prevent a huge wave of migrants, Great Britain is tightening its asylum procedures. Changes are to discourage economic migrants who used to benefit from benevolent immigration regulations. Now, the approach is to become more selective. New measures are meant to help those who really deserve asylum and to discourage those who just intend to parasite on the system in one time.

Beginning by April 1, 2000 asylum seekers get much less cash. The most of their subsistence allowance is provided in inconvertible food coupons. The whole asylum procedure, which formerly took up to two years is to be considerably shortened and simplified. There is only one possibility of appeal now and the procedure might take up to six months.<sup>123</sup>

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<sup>123</sup> \_\_\_\_\_, *Britanie chce bojovat s prilivem imigrantu*, Mlada Fronta Dnes, Apr 4, 2000, p. 11.



## **C. RECEPTION OF IMMIGRANTS AND THEIR INTEGRATION IN SOCIETY**

### **1. Assessment of Migration Trends in Czech Territory**

Since the end of 1998 there has been a continuous increase of foreigners asking for refugee status in the Czech Republic. There were 7219 asylum seekers from as many as 65 countries. Among them, the majority were citizens of Afghanistan, Sri Lanka, India, Yugoslavia and Iraq. Three quarters of them arrived from Asia, two thirds were men between 18-40 years of age.

The Czech Republic is just a transit country on their way to the West. Three quarters of asylum applicants leave the Czech territory before the decision of their cases is reached. Most such fugitives are within citizens of China, Sri Lanka, India, Bangladesh, Iraq and Afghanistan. On the other hand, foreigners who most often stay and become integrated members of the society are citizens of the former USSR and Bulgaria. Their number, however, totaled only 80 individuals.<sup>124</sup>

### **2. Objectives of Integration**

The main objective should be to support the integration of those immigrants whose residence is considered to be of permanent nature. The immigrants should be able to participate in the economic, political and social life of society as its equal members, having both the duties and the rights of the members of society.

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<sup>124</sup> \_\_\_\_\_, *Sest stovek cizincu za mesic*, Mlada Fronta Dnes, Apr 24, 2000, p. 3.

Effective measures should be taken on national and municipal levels to draw up plans for individual immigrant families.

Immigrants should be granted the same position as the rest of the population when choosing the place and form of residence. Then they have to be integrated in municipalities that have made an agreement with the state concerning provision of services to promote integration, and compensation of costs. Attention should be paid to the creation of adequately large ethnic groups so that the social and ethnic background of the total population in the area remains heterogeneous. Employment of immigrants should be organized especially in sectors where they can take advantage of their knowledge of language and culture (export, tourism, services sector).

A major part of the annual refugee quota should be filled in cooperation with UNHCR. Part of the quota should be reserved for cooperation with other organizations and bodies. Refugee background and assessed possibilities of integrating into the society should be regarded as criteria for choosing refugees. The aim of the reception of refugees should be, besides ensuring applicants' accommodation and securing their basic needs, to support the applicants' command of their own lives, especially their ability to work.

### **3. Creating Conditions for Integration of Immigrants**

As far as the safe third countries are concerned, there is an evident value in arrangements, which limit the ability of asylum seekers to apply for refugee status in one country after another. Governments have requested that asylum seekers should in principle

submit their claim to refugee status in the first country they reach which has fair and effective determination procedures.

Decisions on asylum applications should also be made on the basis of an accurate understanding of conditions in countries of origin. There is also a need for countries to develop their own human rights information centers, such as those which exist in Canada and the USA, which have established publicly verifiable databases of information, drawn from a broad range of official and other sources.

Some asylum seekers have established certain connections with a particular country, whether through past residence, the presence of family members or through linguistic or cultural ties. Such connections, which in general are quite easy to verify, may make integration much easier for asylum applicants who are eventually granted refugee status. They may also help to reduce the social welfare costs incurred by the receiving state.

The asylum crisis in the developed states is to a certain extent rooted in fear. Politicians and the public in such countries often fail to make any distinction between refugees, asylum seekers, legal and illegal immigrants. They feel that people, who make little or no contribution to the society, are intruding their countries. And, despite all of the restrictive measures introduced in recent years, the public seems to have lost confidence in the efficacy of the asylum systems established by their governments.

In response, more could be done to make the public aware of the positive contribution that refugees can make to their host country, not just economically, but also socially and culturally. A more sympathetic environment could also be established by

means of measures to promote the social and economic integration of recognized refugees.

#### 4. Return of Rejected Cases

Better procedures for the repatriation of unsuccessful asylum seekers must also be developed if politicians and the public are to have greater confidence in the systems used to examine claims to refugee status.

There is an estimate that up to 80 per cent of rejected asylum seekers in the developed countries stay on after the rejection of their claims, often because the authorities consider that it is too costly or difficult to apprehend and deport them.<sup>125</sup> Without legal status or a legitimate means of livelihood, such people cannot help but be propelled into the underworld of illegal employment and crime. If such individuals are allowed to remain in the country where their application has been turned down, public confidence will inevitably be undermined. As a result, individuals whose claims are true may suffer. Then, a logical conclusion is that refusal of a residence permit and removal from the country should be decided in the same process. This is made to avoid several successive and time-consuming procedural phases. In cases where the return of rejected cases is warranted, however, the procedure employed to remove them should evidently be as safe, humane and transparent as possible.

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<sup>125</sup> \_\_\_\_\_, *The State of the World's Refugees: A Humanitarian Agenda – Chapter 5, "The asylum dilemma"*, UNHCR publication 1997.

## **D. ACTIONS IN COUNTRIES OF ORIGIN**

### **1. Improvement of Economic Conditions**

International efforts to address the real reasons of forced and voluntary migration from the lower-income countries have a long history. Serious attempts are evidently required to deal with the political, economic and environmental problems that make people to leave their own country and to seek asylum somewhere else. The intention should not be to prevent people from moving to another country completely. However, people should be more secure in their own society, so that they migrate out of choice, rather than necessity.

An improvement in the economic performance of countries that originate large-scale migration should help to remove or at least diminish some of the pressure, which encourage people to migrate and to ask for asylum in another country. Well-directed investment, more liberal trading arrangements, a reduction of the debt burden and reasonably used aid can all help to raise living standards and provide the people of low-income countries with better public services. On the other side, there are arguments, that economic growth raises expectations and provides people with the resources, which they need to migrate.

There is a question how long it takes for increased living standards to be reflected in declining rates of international migration. There might also be some ambivalence about the positive impact of economic interventions on the propensity of people to migrate. Also, the policies of structural adjustment and economic liberalization advocated by many



developed states and the international financial institutions have encouraged migratory movements throughout the former communist bloc.

Decision-makers whose main concern lies outside the issue of migration and asylum policy generally control the international macro-economic policy. A recent study undertaken by the IOM and the UN Conference on Trade and Development (UNCTAD), for example, recommends that governments should undertake 'migration audits' before making decisions about overseas investment, trade and development. There is a sensible suggestion that research should be undertaken in countries that have made the transition from being migrant-sending to migrant-receiving states, so as to identify the forms of economic intervention, which have the greatest impact on people's propensity to move. Economic interventions should be considered more carefully with regard to their migratory consequences.<sup>126</sup>

Countries, which receive significant numbers of refugee claims, could make far greater efforts to ensure that actions, which they take in other policy domains, are consistent with their approach to the asylum issue. If the richer countries want to make it possible for people in the less developed regions to live safely in their own country, then they should not sell arms to regimes, which are intent on persecuting their citizens and expelling minority groups.

There is a working example of a more coordinated approach in Sweden, where an all-party commission was established with the precise purpose of examining the linkages between the country's refugee, immigration, development cooperation and foreign

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<sup>126</sup> *Ibid.*

policies. Overall objective for a cohesive global refugee policy should be that international cooperation actively contributes to the underlying causes of refugee movements and forced emigration. At the same time those who are forced to take flight must receive protection and assistance.<sup>127</sup>

## **2. Recommendations in the Area of Humanitarian Aid**

Based on the analysis of existing and already concluded humanitarian operations, it is possible to propose several principles that may lead to incremental improvements in areas depending on humanitarian aid.

First, local authorities in a mission area should ensure the timely distribution of humanitarian goods and clear existing and unjustifiable bottlenecks within that part of distribution system, which is under their control. They should also provide warranties that no discrimination within aid receivers takes place and priorities set by aid providers are honored.

When basic humanitarian needs are being met through handouts, reconstruction of local economy including agriculture is not stimulated. Imported food and grain should supplement rather than substitute local produce. Additional financial resources should be used to procure food locally if and when available, and to stimulate local production. This will not only contribute to keep local population active instead of turning them into aid-

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<sup>127</sup> \_\_\_\_\_, *"Swedish refugee policy in global perspective: summary of a report to the Swedish government by the parliamentary Refugee Policy Commission"*, Stockholm, June 1995, p. 2.

dependent consumers, but also free certain resources for other necessary humanitarian supplies.

Securing additional funding to finance humanitarian efforts is useful only when already allocated funds have been used effectively. The international community should not be encouraged to provide supplementary funding for humanitarian efforts either bilaterally or through multilateral organizations and NGOs, unless waste and abuse of humanitarian aid is prevented.

Limited investment flows may be considered into those subjects in local economy unrelated to any fighting fractions, on the understanding that strict international control would be maintained over financial resources obtained from sponsored activities and that a strict arms embargo and control over dual use items would take place.

For transition economies in Central Europe more meaningful would be to focus their humanitarian contributions on territories and areas related historically and socially to their interests. When contributing to a large-scale humanitarian relief effort, a contribution in kind should be preferred to simple financial gifts.

The above proposal is based on consideration of the size of Central European economies compared to the size of the major world humanitarian crises. The national economies of relatively small countries in the region are proportionally balanced. Then there is no massive excess supply of commodities with limited realization chance on an open market that may be used as ad hoc humanitarian contribution.

When demonstrating positive attitudes towards suffering population of a particular crises area, necessary data regarding real needs should be collected before any important

decision is done. There are already good examples of successful emergency deployment of stand-by forces that were prepared based on working models prior to outbreak of crises.

### **3. Recommendations in Area of Official Development Aid**

It is very likely that Official Development Aid will, in spite of its inefficiency and overall questionable results, continue. It is not likely to terminate it quickly because of existing commitments and interests in both, the donor as well as the recipient countries. It may probably help if aid were given in forms enabling to identify its costs and benefits. There may be some advantage in avoiding soft loans in favor of direct grants provided directly between governments without any mediation. This could permit democratic control over such transactions in donor countries. Consequently, aid would have to be concentrated on governments whose policies were likely to promote general welfare and economic progress of their people.<sup>128</sup>

A principal goal regarding Official Development Aid should be to influence directly and effectively those reasons that cause large-scale illegal migration. The authorities that implement national foreign policy should promote cooperation between different areas (migration, human rights, development cooperation, humanitarian aid, commercial policy) by intensifying their mutual coordination and exchange of information to enable the CU countries to influence the reasons for large-scale illegal migration.

Administration and decision-making of humanitarian aid should be provided with increased readiness to enable prompter reactions to refugee crises. Humanitarian aid

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<sup>128</sup> Bauer, P., Yamey, B.,: *Foreign Aid: What is at stake?* Lloyds Bank Review, October 1981, p. 68.



should be also allocated to local projects that aim at promoting the possibilities of authorities, organizations and population groups in conflict areas to solve problems. The organizations participating in development cooperation and humanitarian aid should be given better possibilities to influence development cooperation projects and directing of the humanitarian aid at the preparatory stage of decision-making.

The opinions of the authorities in charge of refugee and immigration policy should be taken more into account when preparing development cooperation, especially humanitarian aid.<sup>129</sup>

## **E. MEASURES IN THE AREA OF IMMIGRATION POLICY**

### **1. Work Permits for Foreigners**

With the growing unemployment, pressure is developed on the reduction in numbers of the employed foreigners. The job centers should consequently take decisions in accordance with this situation. The number of valid work permits for foreigners in the Czech Republic should be not only reduced. It should rather reflect real needs of the labor market in order to allow foreigners to participate and contribute to the development of national economy.

From the assessment of economic situation of less advanced countries of Eastern and Europe it can be concluded that the inflow of foreigners into the Czech Republic will probably not decrease in the future. Then, probable growth in numbers of illegal

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<sup>129</sup> \_\_\_\_\_, *Government Decision-In-Principle on Immigration and Refugee Policy Programme*, article 3.3, Government of Finland, 16 October 1997.



employment opportunities together with limiting the legal employment of foreigners at the same time may lead to the other forms of unregulated entry to the labor market. Such forms may include various illegal business activities.

Many examples can document situations when foreigners who were granted residence permits for the purpose of business activities have breached the law on employment by employing other foreigners without the proper work and residence permits.

## **2. Policies Integrating Immigrants**

In comparison with Western countries, the situation and experience of the Czech Republic in the field of integration of immigrants is different, a consequence of its previous historical and geopolitical development. The active policies reflect a primary interest in the reintegration of ethnic nationals and real refugees rather than economic immigrants. The most important task of the integration of refugees is to ensure reasonable and dignified conditions of their accommodation, employment and living. This is not possible to fulfil without the assistance of the state.

The Ministry of the Interior has already drawn up the program of assistance to Czech expatriates. This program should be continued and developed also in the future. The purpose of the program is not to stimulate the return of Czechs living abroad, but to enable it in necessary cases, with some specific limits and exactly specified conditions. It provides solutions to individual applications for permanent residence permit submitted by Czechs living abroad. Those applicants who prove Czech origin should enjoy support

during and after their return to the Czech Republic and material conditions should be provided for their integration.

### **3.      Adaptation to the EU Standards**

In 1991, the Czech Republic has signed together with Poland, Hungary and Slovakia the Europe Agreements with the EU. This replaced existing cooperation agreements. These agreements established a bilateral association between the EU and each CEEC. The Europe Agreements are part of an overall pre-accession strategy. The preparation for entry of the Czech Republic into the European Union should be in harmony with practices of the EU member countries in the area of the visa policy.

Especially, consistent protection of state borders against illegal migration, preparation of legislation for the standard principles applied by eu members in the sphere of foreigners' arrivals and residence in the country, asylum procedure, and expulsion, when needed, must be guaranteed in accordance with the schengen agreement criteria.

## VII. CONCLUSION

Based on the nature of large-scale migration, international population movements raise a number of various challenges for public policy: refugee support and administration, crime control, labor market regulation with respect to the potential foreign labor force, and integration of increasingly diverse categories of migrants.

The major areas of the migration policy are: control of migration flows, integration policy and foreign policy designed to improve the management of migration, such as labor migration.

It is obvious that the responses by individual countries differ widely according to the nature of the migration, the country's geopolitical situation and its willingness to exercise its sovereign authority in the sphere of admission and integration of foreigners. Those central and european countries which have already begun to negotiate their possible entry into the eu, are trying to establish new migration policies that conform to eu standards in the areas of the entry of refugees, the stay and employment of foreigners, and the border control.

The intent of the Czech Republic is to open the society and orient national interests towards the West. The new political and economic situation has among its significant factors massive migratory movements with their important political, economic, social, demographic, psychological and cultural impacts on the countries of departure, transit and destination. The social and economic conditions of the transit countries such as the Czech

Republic, Hungary, Poland and Slovakia create relatively favorable environment for migrants coming from East European and developing countries.

The Czech Republic has the objective of joining the EU in the first group of applicants along with Poland, Hungary, Estonia, Cyprus and Slovenia. However, there is still no official migration policy because of the temporary nature of the migration, which has still more a transit rather than immigration character.

The Czech Republic has not have a distinguished record in dealing with problems of large-scale migration. This undoubtedly, is a consequence of the policies of a totalitarian regime, which controlled the country for half a century. What will be needed in this area is incorporation of existing standards and policies of the European Union with respect to the efforts of seeking solutions to the looming problem of large-scale migration.

## LIST OF ABBREVIATIONS

AID	Agency for International Development
CEECs	Central and Eastern European Countries
DAC	Development Assistance Committee
DHA	Department of Humanitarian Affairs
DIP	Division of International Protection
DRK	German Red Cross
EAC	European Association for Cooperation
EAGGF	European Agricultural Guidance and Guarantee Fund
ECHO	European Community Humanitarian Office
ECTF	European Community Task Force
EDF	European Development Fund
EIB	European Investment Bank
EU	European Union
FAO	Food and Agricultural Organization of the United Nations
FPA	Framework Partnership Agreement
ICRC	International Committee of the Red Cross
IDA	International Dispensary Association
IDA	International Development Aid



IFRC	International Federation of the Red Cross
IOM	International Organization for Migration
NGOs	Non-governmental Organizations
ODA	Official Development Aid
OECD	Organization for Economic Cooperation and Development
OPEC	Organization of the Petroleum Exporting Countries
QIP	Quick Impact Project
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Program
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development
WFP	World Food Program
WHO	World Health Organization

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